

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-81395-CIV-MARRA

FEDERAL TRADE COMMISSION, and

STATE OF FLORIDA,

Plaintiffs,

v.

Inbound Call Experts, LLC also d/b/a Advanced Tech Support, a limited liability company,

Advanced Tech Supportco, LLC, a limited liability company,

PC Vitalware, LLC, a limited liability company,

Super PC Support, LLC, a limited liability company,

Robert D. Deignan, individually and as an officer of Inbound Call Experts, LLC, Advanced Tech Supportco, LLC, PC Vitalware, LLC, and Super PC Support, LLC,

Paul M. Herdsman, individually and as an officer of Inbound Call Experts, LLC, PC Vitalware, LLC, and Super PC Support, LLC,

Justin M. Wright, individually and as an officer of Inbound Call Experts, LLC, PC Vitalware, LLC, and Super PC Support, LLC,

PC Cleaner, Inc., a corporation,

Netcom3 Global, Inc., a corporation,

Netcom3, Inc. also d/b/a Netcom3 Software Inc., and

Cashier Myricks, Jr. a/k/a Cashier Myrick, individually and as an officer of PC Cleaner, Inc., Netcom3 Global, Inc., and Netcom3, Inc.,

Defendants.

Filed Under Seal

TEMPORARY RESTRAINING ORDER

Plaintiffs, the Federal Trade Commission (“FTC” or the “Commission”) and the State of Florida, Office of the Attorney General (“State of Florida”), have filed a Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Florida Deceptive and Unfair Trade Practices Act Chapter 501, Part II, Florida Statutes (“FDUTPA”), and have moved *ex parte* for a temporary restraining order and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure against Defendants Inbound Call Experts, LLC also d/b/a Advanced Tech Support, Advanced Tech Supportco, LLC, PC Vitalware, LLC, Super PC Support, LLC, Robert D. Deignan, Paul M. Herdsman, Justin M. Wright, PC Cleaner, Inc., Netcom3 Global, Inc., Netcom3, Inc. also d/b/a Netcom3 Software Inc. and Cashier Myricks, Jr. (collectively, “Defendants”).

FINDINGS OF FACT

The Court, having considered the Complaint, the *ex parte* motion for a temporary restraining order, declarations, exhibits, and the memorandum of points and authorities filed in support thereof, and being otherwise advised, finds that:

1. This Court has jurisdiction over the subject matter of this case and over all parties. Venue in this district is proper;
2. Plaintiffs have sufficiently demonstrated that the Defendants have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”),

16 C.F.R. Part 310, and Section 501.204 of FDUTPA, and that the FTC and the State of Florida are therefore likely to prevail on the merits of this action;

3. Plaintiffs have sufficiently demonstrated that immediate and irreparable harm will result from the Defendants' ongoing violations of Section 5 of the FTC Act, the TSR and Section 501.204 of FDUTPA unless Defendants are restrained and enjoined by Order of this Court;
4. Plaintiffs have sufficiently demonstrated that immediate and irreparable damage to this Court's ability to grant effective final relief for consumers, including monetary restitution, rescission, disgorgement or refunds, will occur from the sale, transfer, destruction or other disposition or concealment by Defendants of their Assets, Documents, records or other evidence if Defendants are provided with advance notice of this Order, and that therefore, in accordance with Fed. R. Civ. P. 65(b), the interests of justice require that this Order be granted without prior notice to Defendants. Thus, there is good cause for relieving the FTC and the State of Florida of their duties to provide Defendants with prior notice of the FTC and the State of Florida's application;
5. Plaintiffs have sufficiently demonstrated the need for: (a) the appointment of a Temporary Receiver over the ICE Corporate Defendants (defined below); (b) the freezing of Defendants' Assets; and (c) ancillary relief ordered below;
6. Weighing the equities and considering Plaintiffs' likelihood of ultimate success on the merits, a temporary restraining order with an asset freeze, and other equitable relief is in the public interest; and
7. The FTC is an independent agency of the United States of America and no security is required of any agency of the United States for issuance of a temporary restraining order.

Fed. R. Civ. P. 65(c). Similarly, under Florida Rules of Civil Procedure and governing case law, no security is required for the State of Florida.

DEFINITIONS

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

1. “**Asset**” means any legal or equitable interest in, right to, or claim to, any real, personal, or intellectual property including chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares or stock, securities, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), insurance policies, lines of credit, cash, trusts (including asset protection trusts), lists of consumer names and reserve funds or any other accounts associated with any payments processed by, or on behalf of, any Defendant, including such reserve funds held by payment processors, credit card processors, banks or other financial institutions.

2. “**Corporate Defendants**” means, individually, collectively, or in any combination, Inbound Call Experts, LLC also d/b/a Advanced Tech Support, Advanced Tech Supportco, LLC, PC Vitalware, LLC, Super PC Support, LLC, PC Cleaner, Inc., Netcom3 Global, Inc. and Netcom3, Inc. also d/b/a Netcom3 Software Inc., and their subsidiaries, affiliates, successors, and assigns.

3. “**Defendants**” means, individually, collectively, or in any combination, all of the Individual Defendants and the Corporate Defendants.

4. “**Document**” includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

5. “**Financial Institution**” means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

6. “**FTC Act**” means the Federal Trade Commission Act codified at 15 U.S.C. §§ 41-58.

7. “**ICE Corporate Defendants**” means Inbound Call Experts, LLC, Advanced Tech Supportco, LLC, PC Vitalware, LLC and Super PC Support, LLC.

8. “**Individual Defendants**” means Robert D. Deignan, Paul M. Herdsman, Justin M. Wright and Cashier Myricks, Jr.

9. “**PC Cleaner Corporate Defendants**” means PC Cleaner, Inc., Netcom3 Global, Inc. and Netcom3, Inc.

10. “**Person**” means a natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

11. “**Plaintiffs**” means the Federal Trade Commission and the State of Florida.

12. “**Receiver**” or “**Temporary Receiver**” means the temporary receiver appointed in Section XII of this Order and any deputy receivers that shall be named by the temporary receiver.

13. “**Receivership Defendants**” means the ICE Corporate Defendants.

14. “**Representative**” means Defendants’ officers, agents, servants, successors, assigns, employees, and attorneys, and any other person or entity in active concert or participation with them, who receives actual notice of this Order by personal service or otherwise.

15. “**Seller**” means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration, whether or not such person is under the jurisdiction of the Commission.

16. “**Tech Support Product or Service**” means any plan, program or software, marketed to repair, maintain or improve a computer’s performance or security, including registry cleaners, anti-virus programs and computer or software diagnostic services.

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

18. “**Telemarketing**” means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

19. “**Telemarketing Sales Rule**” or “**TSR**” means the Telemarketing Sales Rule set forth in 16 C.F.R. Part 310.

I.

PROHIBITED MISREPRESENTATIONS

IT IS HEREBY ORDERED that Defendants and their Representatives, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution, offering for sale, or sale of any goods or services, are hereby temporarily restrained and enjoined from misrepresenting, either orally or in writing, expressly or by implication that they have identified problems on consumers’ computers that will affect the performance or security of the consumers’ computers.

II.

CONDUCT PROHIBITIONS REGARDING MARKETING

IT IS HEREBY ORDERED that Defendants and their Representatives, whether acting directly or indirectly, in connection with the marketing, advertising, promotion, distribution,

offering for sale, or sale of any goods or services, are hereby temporarily restrained and enjoined from:

- A. Using any false or misleading statement to induce any person to pay for goods or services; or
- B. Violating the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as Appendix A.

III.

PROHIBITION AGAINST CHARGING OR BILLING CONSUMERS

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from charging any consumer for the purchase of Defendants' Tech Support Products or Services.

IV.

SUSPENSION OF CORPORATE DEFENDANTS' WEB SITES

IT IS FURTHER ORDERED that any party hosting any webpage or website for any Corporate Defendant and any domain registrar who has provided or is providing domain name registration services on any Corporate Defendant's behalf are hereby temporarily restrained and enjoined from failing to:

- A. Immediately take whatever steps may be necessary to ensure that any webpage or website operated, in whole or in part, in connection with the Corporate Defendants' provision of Tech Support Products or Services cannot be accessed by the public; and
- B. Prevent the destruction or erasure of any webpage or website operated, in whole or in part, on any Corporate Defendant's behalf, preserving such documents in the format in

which they are currently maintained, and prevent the destruction or erasure of all records relating to the Corporate Defendants.

V.

DISCONNECTION OF CORPORATE DEFENDANTS' TELEPHONE NUMBERS

IT IS FURTHER ORDERED that any telephone service provider for any Corporate Defendant, including but not limited to Voice Over Internet Protocol and telecommunications service providers and toll-free forwarding services, who has provided or is providing telephone services on any Corporate Defendant's behalf are hereby temporarily restrained and enjoined from failing to immediately take whatever steps may be necessary to ensure that any telephone or fax number operated, in whole or in part, in connection with the Corporate Defendants' provision of computer repair services, is disconnected from service.

VI.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing any funds, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other Assets of any Corporate Defendant, or any interest therein, wherever located, including outside the United States, that are:

1. owned, controlled or held, in whole or in part, by any Corporate Defendant;

2. held, in whole or in part, for the direct or indirect benefit of, any Corporate Defendant;
3. in the actual or constructive possession of any Corporate Defendant;
4. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any of the Corporate Defendants. This includes, but is not limited to, any Assets held by, for, or subject to access by, any of the Corporate Defendants at any bank or savings and loan institution, or at/with any broker-dealer, escrow agent, title company, insurance company, commodity trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third-party processor, payment gateway or other financial institution or depository of any kind;
5. held by an agent of any Corporate Defendant as a retainer for the agent's provision of services to Defendants;
6. held in any account for which any Corporate Defendant is, or was on the date that this Order was signed, an authorized signor;
7. is in the possession, custody, or control of any individual Defendant that is owned by any Corporate Defendant or in which any Corporate Defendant has any legal or equitable interest or claim; or
8. property of any kind, including cash, that is in the in the possession, custody, or control of any individual Defendant which was transferred or received from

any Corporate Defendant within thirty (30) days prior to the entry of this Temporary Restraining Order.

B. Physically opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant, either individually or jointly, or subject to access by any Defendant, except as necessary to comply with Section XIV of this Order;

C. Incurring charges or cash advances on any credit or bank card issued in the name, individually or jointly, of any Corporate Defendant or any corporation or partnership. This includes, but is not limited to, any corporate bank card or corporate credit card account for which any Defendant is, or was on the date that this Order was signed, an authorized signor;

D. Obtaining a personal or secured loan encumbering the Assets of any Corporate Defendant; and

E. Incurring liens or other encumbrances on real property, personal property, or other Assets in the name, individually or jointly, of any Corporate Defendant.

VII.

DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that any financial or brokerage institution, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third-party processor, payment gateway, insurance company, business entity, or person served with a copy of this Order that (a) holds, controls, or maintains custody of any account, safe deposit box or Asset of any Corporate Defendant, (b) holds, controls, or maintains custody of any Asset associated with credits, debits or charges made on behalf of any Corporate Defendant, including reserve funds held by payment processors, credit card processors, payment merchant banks, acquiring banks, independent sales organizations, third-party processors, payment

gateways, insurance companies or other entities, or (c) has held, controlled, or maintained custody of any such account, safe deposit box or Asset at any time since the date of entry of this Order shall:

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

B. Deny any person, except the Receiver acting pursuant to Section XIII of this Order, access to any safe deposit box, commercial mail box, or storage facility that is:

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

C. Provide the FTC's counsel, State of Florida's counsel and the Receiver, within ten (10) business days of receiving a copy of this Order, a sworn statement setting forth:

1. the identification number of each account or Asset:
 - a) titled in the name, individually or jointly, of any of the Corporate Defendants;
 - b) held on behalf of, or for the benefit of, any of the Corporate Defendants;
or
 - c) associated with credit or debit charges made on behalf of the Corporate Defendants;
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 any of the Corporate Defendants, or is otherwise subject to access by any of the Defendants; and

D. Upon request of the FTC, State of Florida, or the Receiver, promptly provide the FTC, State of Florida and the Receiver with copies of all records or other documentation pertaining to such account or Asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail boxes and storage facilities.

VIII.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Assets.

IX.

CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency served with this Order shall promptly furnish consumer reports as requested concerning any Defendant to counsel for Plaintiffs. Plaintiffs may also directly access any Defendant's consumer report.

X.

**PRESERVATION OF RECORDS
AND REPORT OF NEW BUSINESS ACTIVITY**

IT IS FURTHER ORDERED that Defendants and their Representatives, as well as any document custodians receiving actual notice of this Order, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily 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, including: any and all marketing materials, Internet pages, consumer complaints, call detail records, telephone logs, telephone scripts, contracts, correspondence, e-mail, corporate books and records, accounting data, financial statements, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, calendars, appointment books, and tax returns;

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

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing counsel for the Commission 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.
PROHIBITION ON RELEASE
OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, are hereby temporarily restrained and enjoined from:

A. Selling, renting, leasing, transferring, using, disclosing, or otherwise benefitting from the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person that Defendant obtained prior to entry of this Order in connection with any activity that pertains to the subject matter of the Complaint; and

B. Benefitting from or using the name, address, birth date, telephone number, e-mail address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any Person from whom or about whom any Defendant obtained such information in connection with any activity that pertains to the subject matter of this Order;

PROVIDED, HOWEVER, that the Defendants may disclose such identifying information to any civil or criminal law enforcement agency or as required by any law, regulation, or court order.

XII.

APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Jeffrey C. Schneider is appointed temporary receiver for the Receivership Defendants and any of their affiliates, subsidiaries, divisions, or telephone sales, technical support or customer service operations, wherever located, with the full power of an equity receiver. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court.

XIII.

RECEIVER'S DUTIES AND AUTHORITIES

IT IS FURTHER ORDERED that the Receiver is authorized and directed to

accomplish the following:

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

B. Take exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control of, the Receivership Defendants, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all Assets and Documents of the Receivership Defendants and other persons or entities whose interests are now under the direction, possession, custody, or control of, the Receivership Defendants. The Receiver shall assume control over the Receivership Defendants' income and profits therefrom and all sums of money now or hereafter due or owing to the Receivership Defendants. Provided, however, that the Receiver shall not attempt to collect any amount from a consumer if the Receiver believes the consumer was a victim of the deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

C. Take all steps necessary to secure and take exclusive custody of each location from which the Receivership Defendants operate their businesses. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable:

(1) serving this Order; (2) completing a written inventory of all Receivership Assets; (3) obtaining pertinent information from all employees and other agents of the Receivership Defendants, including the name, home address, Social Security Number, job description, company history, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) photographing and

videotaping any or all portions of the location; (5) securing the location by changing the locks and disconnecting any internet access or other means of access to the computers, internet or records maintained at that location; and (6) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises Documents or Assets of the Receivership Defendants. Law enforcement personnel, including police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

D. Conserve, hold, and manage all Assets of the Receivership Defendants, and perform all acts necessary or advisable to preserve the value of those Assets in order to prevent any irreparable loss, damage, or injury to consumers or creditors of the Receivership Defendants, including determining the available Assets and preventing the unauthorized transfer, withdrawal, or misapplication of Assets;

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

F. Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with the Receivership Defendants;

G. Manage and administer the business of the Receivership until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes but is not limited to retaining, hiring, or dismissing any employees, independent contractors, or agents, provided that the Receiver shall suspend business operations of the

Receivership Defendants if, in the judgment of the Receiver, such operations cannot be continued legally or profitably;

H. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

I. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of the Receivership Defendants, such as rental payments;

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

K. Prevent the destruction or erasure of any web page or website registered to and operated, in whole or in part, by Receivership Defendants;

L. Take all steps necessary to ensure that any of the Receivership Defendants' web pages or websites relating to technical support cannot be accessed by the public, or are modified for consumer education and/or informational purposes;

M. Take all steps necessary to ensure that any telephone numbers associated with the Receivership Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations;

N. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the Assets of the Receivership

Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including actions challenging fraudulent or voidable transfers;

O. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against the Receivership Defendants, as the Receiver deems necessary and advisable to preserve the Assets of the Receivership Defendants, or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

P. Issue subpoenas to obtain Documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;

Q. Open one or more bank accounts as designated depositories for funds of the Receivership Defendants. The Receiver shall deposit all funds of the Receivership Defendants in such a designated account and shall make all payments and disbursements from the Receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;

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

S. Allow the Plaintiffs' representatives, agents, and assistants, as well as Defendants' Representatives and Defendants themselves, reasonable access to the premises of the Receivership Defendants, or any other premises where the Receivership Defendants conduct business or telephone sales operations. The purpose of this access shall be to inspect and copy any and all books, records, Documents, accounts, and other property owned by, or in the possession of, the Receivership Defendants or its agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access;

T. Allow the Plaintiffs' representatives, agents, and assistants, as well as Defendants' Representatives and Defendants themselves, reasonable access to Documents in the

possession, custody, or control of the Receivership Defendants, or on their behalf, including, but not limited to, books, records, tapes, discs, accounting data, checks, correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers and payroll records, and any other Document or record that relates to the business practices or finances of the Receivership Defendants, including electronically stored information (such as electronic mail);

U. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency; and

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

XIV.

TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER

IT IS FURTHER ORDERED that the Defendants, their Representatives, and any other Person with possession, custody or control of property of, or records relating to, the Receivership Defendants shall, upon notice of this Order by personal service or otherwise, immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

A. All Assets of the Receivership Defendants;

B. All Documents of the Receivership Defendants, including books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title Documents and other papers;

C. All computers, electronic devices, mobile devices and machines and data in whatever form used to conduct the business of the Receivership Defendants;

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

E. All keys, codes, user names and passwords necessary to gain or to secure access to any Assets or Documents of the Receivership Defendants, including access to their business premises, means of communication, accounts, computer systems, 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.

XV.

PROVISION OF INFORMATION TO RECEIVER

IT IS FURTHER ORDERED that the Receivership Defendants shall provide to the Receiver, immediately upon request, the following:

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

B. A list of all agents, employees, officers, servants and those persons in active concert and participation with the Receivership Defendants, who have been associated or done business with the Receivership Defendants. Such list should include every entity that provides leads to the Receivership Defendants.

XVII.

COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants, their Representatives, and any other person served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Assets and Documents of the

Receivership Defendants. This cooperation and assistance shall include, but not be 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 password required to access any computer, mobile device, electronic file, or telephonic data in any medium; advising all persons who owe money to the Receivership Defendants that all debts should be paid directly to the Receiver; transferring funds at the Receiver's direction; and producing records related to the Assets and sales of the Receivership Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers, credit card processors, payment processors, merchant banks, acquiring banks, independent sales organizations, third-party processors, payment gateways, insurance companies and other financial institutions and depositories of any kind, as well as all common carriers, telecommunications companies and third-party billing agents.

XVII.

NO INTERFERENCE WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and their Representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, affiliate, independent contractor, accountant, financial advisor, or other device, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

- A.** Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the Assets or Documents subject to this Receivership;
- B.** Transacting any of the business of the Receivership Defendants;

C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendants or the Receiver; and

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

XVIII.

RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$25,000.00 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs. 28 U.S.C. § 754.

XIX.

COMPENSATION OF RECEIVER

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

XX.

**ACCESS TO RECEIVERSHIP DEFENDANTS'
BUSINESS PREMISES AND RECORDS**

IT IS FURTHER ORDERED that, in order to allow the FTC, the State of Florida, and the Receiver to preserve Assets and evidence relevant to this action, and to expedite discovery, Plaintiffs and the Receiver, and their agents and assistants, shall have immediate access to all business premises and storage facilities, owned, controlled, or used by the Receivership Defendants, including but not limited to the offices of the Receivership Defendants. Such locations include, but are not limited to: 700 Banyan Trail, Suite 200, Boca Raton, Florida 33431 and 4800 T Rex Ave St. 350, Boca Raton, Florida 33431. The FTC, the State of Florida, and the Receiver are authorized to obtain the assistance of the U.S. Marshal's office and other federal, state and local law enforcement officers as they deem necessary to effect service and to implement peacefully the provisions of this Order. The FTC, the State of Florida, and the Receiver, and their representatives, agents, and assistants, are authorized to remove Documents from the Receivership Defendants' premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action. Plaintiffs shall return such material within seven (7) business days of completing inspection, inventory and copying. Plaintiffs' access to the Receivership Defendants' documents pursuant to this Section shall not provide grounds for the Receivership Defendants to object to any subsequent request for documents served by any Plaintiff.

The Defendant, and all employees or agents of the Corporate Defendants shall provide the FTC, the State of Florida, and the Receiver with any necessary means of access to the Corporate Defendants' Documents and records, including, without limitation, the locations of the Corporate Defendants' business premises, keys and combinations to locks, computer access codes, and storage area access information;

If any computers or other electronic data storage devices containing information related to the business practices or finances of the Corporate Defendants are at a location other than those listed herein, including the personal residences of the Individual Defendants, then immediately upon service of this Order upon them the Individual Defendants shall produce to the Receiver all such computers and other electronic data storage devices. In order to prevent the destruction of electronic data, upon service of this Order upon the Defendants, any computers or other electronic data storage devices containing such information shall be powered down (turned off) in the normal course for the operating systems used on such devices and shall not be used until produced for copying and inspection, along with any codes needed for access.

Furthermore, the Receiver shall allow the Defendants reasonable access to the premises and business records of the Receivership Defendants within his possession for the purpose of inspecting and copying materials relevant to this action. Subject to the Court's authority to supersede the Receiver's actions, the Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XXI.

**IMMEDIATE PRODUCTION OF
BUSINESS RECORDS BY PC CLEANER DEFENDANTS**

IT IS FURTHER ORDERED that the PC Cleaner Defendants shall allow the Plaintiffs' employees and agents access to the PC Cleaner Defendants' business records to inspect and copy Documents in preparation for the preliminary injunction hearing and to identify and locate assets.

PC Cleaner Defendants shall, within ten (10) days of receiving notice of this Order, produce to Plaintiffs for inspection, inventory, and/or copying, at a location designated by Plaintiffs, the following materials: (1) all customer information, including names, phone numbers, addresses, e-mail addresses, customer complaints, and payment information for all

consumers who have purchased PC Cleaner Defendants' Tech Support Products or Services; (2) all contracts; (3) any correspondence, including electronic correspondence, that refer or relate to the PC Cleaner Defendants' Tech Support Products or Services; (4) an electronic copy of all advertisements for the PC Cleaner Defendants' computer security or technical support services; and (5) accounting information, including profit and loss statements, annual reports, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and 1099 forms. The Plaintiffs shall return produced materials pursuant to this Paragraph within twelve (12) days of the PC Cleaner Defendants' production.

XXII.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the time periods, notice provisions, and other requirements of Rules 26(d), 26(f), and 30(a)(2)(c) of the Federal Rules of Civil Procedure, and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, the FTC and the State of Florida are granted leave, at any time after entry of this Order, to conduct limited expedited discovery as to parties and non-parties for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' Assets; (2) the nature and location of Documents reflecting Defendants' businesses, business transactions, and operations; or (3) compliance with this Order. Procedures for conducting such discovery shall be determined at the hearing scheduled for the entry of a preliminary injunction.

XXIII.

DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire fourteen (14) days from the date of entry noted below unless, within such time, the Order is extended for an additional period not to exceed fourteen (14) days for good cause shown, or unless, as to any Defendant, such Defendant consents to an extension for a longer period.

XXIV.

PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that each Defendant shall appear before this Court on the 24th day of November, 2014, at 9:00 o'clock a.m., 701 Clematis Street, West Palm Beach, Fl 33401, Courtroom 4, to show cause, if there is any, why this Court should not enter a Preliminary Injunction enjoining the violations of law alleged in the Complaint, continuing the freeze of their Assets, and imposing such additional relief as may be appropriate.

XXV.

RETENTION OF JURISDICTION

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

DONE AND ORDERED in chambers in West Palm Beach, Palm Beach County, Florida, this 12th day of November, 2014, at 1:50 p.m.



KENNETH A. MARRA
United States District Judge