

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUDGE JOAN H. LEFKOW

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

3R BANCORP, *et al.*,

Defendants.

Civil Action No.

04C 7177

MAGISTRATE JUDGE DANLOW

[PROPOSED]

**EX PARTE TEMPORARY RESTRAINING ORDER WITH ASSET
FREEZE, OTHER EQUITABLE RELIEF, AND ORDER TO SHOW
CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and having moved for an *ex parte* Temporary Restraining Order and other relief pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the complaint, declarations, exhibits, and memorandum of law filed in support thereof, and now being advised in the premises finds, that:

1. This Court has jurisdiction over the subject matter of this case and there is good cause to believe it will have jurisdiction over all parties hereto.
2. Venue lies properly with this Court.
3. There is good cause to believe that Defendants have engaged in and are likely to

engage in the future in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales Rule, 16 C.F.R. Part 310, and that Plaintiff is therefore likely to prevail on the merits of this action.

4. There is good cause to believe that Defendants have engaged in a widespread effort to debit money from consumers' bank accounts based on deceptive acts and practices, that Defendants have retained ill-gotten gains from these practices, and that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, or other disposition or concealment by Defendants of their Assets or corporate records unless Defendants are immediately restrained and enjoined by Order of this Court. There is thus good cause for an asset freeze, the appointment of a temporary receiver over the corporate defendants, and for relieving Plaintiff of the duty to provide Defendants with prior notice of Plaintiff's motion.

5. Weighing the equities and considering Plaintiff's likelihood of ultimate success, a Temporary Restraining Order with asset freeze and other equitable relief is in the public interest.

6. No security is required of any agency of the United States for issuance of a restraining order. FED. R. CIV. P. 65(c).

DEFINITIONS

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

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in

the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **“Assisting others”** means: (1) performing customer service functions including, but not limited to, receiving or responding to consumer complaints, receiving identifying and financial information from consumers, and communicating with consumers about extensions of credit; (2) developing, providing, or arranging for the development or provision of sales scripts or any other marketing material; (3) providing names of, or arranging for the provision of names of, potential customers; or (4) performing marketing services of any kind.

3. **“Credit-related products, programs, or services”** means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any extension of credit or credit device, including, but not limited to, credit cards, loans, or financing, or as a method to consolidate or liquidate debts.

4. **“Customer”** means any person who has paid, or may be required to pay, for goods or services.

5. **“Defendant” or “Defendants”** means 3R Bancorp; 3R e-Solutions, Inc., also doing business as CR Bancorp, Euro Banca, 3R Companies, 3R Ventures, 3R Contact Centers, 3R Solutions, 3RE E-Solutions, R 3R E-Solutions, E3R E-Solutions, and E 3R Capital Solutions; 3R E-Solutions Corporation; National United Properties, LLC; 3R Real Estate Corporation, formerly Fairview, Inc. and still intermittently doing business under that name; E Three R Info Systems Pvt. Ltd., also known as E 3R Infosystems Pvt. Ltd.; Ranbir Sahni, individually and as an officer or director of the corporate Defendants; John Perton, individually and as an officer or

director of the corporate Defendants; Oliver McKinney, individually and as an officer or director of the corporate Defendants; Brian Murphy, individually and as an officer or director of the corporate Defendants; and Kirt Charter, individually and as an officer or director of the corporate Defendants; and each of them, by whatever names each may be known.

6. **“Document” or “Documents”** means any materials listed in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate Document within the meaning of the term.

7. **“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.

8. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

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

10. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”).

11. **“Receivership Defendants”** means 3R Bancorp; 3R e-Solutions, Inc., also doing business as CR Bancorp, Euro Banca, 3R Companies, 3R Ventures, 3R Contact Centers, 3R Solutions, 3RE E-Solutions, R 3R E-Solutions, E3R E-Solutions, and E 3R Capital Solutions; 3R

E-Solutions Corporation; National United Properties, LLC; 3R Real Estate Corporation, formerly Fairview, Inc. and still intermittently doing business under that name; and E Three R Info Systems Pvt. Ltd., also known as E 3R Infosystems Pvt. Ltd.

12. **“Telemarketing”** means any business activity (which includes, but is not limited to, initiating or receiving telephone calls, managing others who initiate or receive telephone calls, operating an enterprise that initiates or receives telephone calls, owning an enterprise that initiates or receives telephone calls, or otherwise participating as an officer, director, employee or independent contractor in an enterprise that initiates or receives telephone calls) that involves attempts to induce consumers to purchase any item, good, service, partnership interest, trust interest or other beneficial interest, or to enter a contest for a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use of other forms of marketing. *Provided* that the term “telemarketing” shall not include transactions that are not completed until after a face-to-face contact between the seller or solicitor and the consumers solicited. *Provided further*, that for the purposes of Section I.B *infra* (requiring compliance with the TSR), the definition of telemarketing shall be consistent with 16 C.F.R. § 310.2.

I.

CEASE AND DESIST

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or

any of them, in connection with the telemarketing, advertising, marketing, proposed sale, or sale of any product or service, or the entering into any contract or any other arrangement relating to the telemarketing, advertising, marketing, proposed sale or sale of any product or service, are hereby restrained and enjoined from:

A. making, or assisting others in the making of any false or misleading statement or representation of material fact, expressly or by implication, orally or in any writing, including, but not limited to:

1. Misrepresenting, expressly or by implication, that Defendants will provide consumers with, or arrange for consumers to receive, a credit card;
2. Misrepresenting, expressly or by implication, Defendants' ability to provide, or arrange, or facilitate the provision of, any credit-related product, program, or service to consumers;
3. Misrepresenting, expressly or by implication, that after paying a fee to Defendants, consumers will, or are highly likely to, receive an unsecured credit card; and
4. Misrepresenting, expressly or by implication, any fact material to a consumer's decision to purchase or use any programs, services, or products;

B. Violating or assisting others to violate any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to,

1. Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii), by misrepresenting, expressly or by implication, that after paying Defendants

a fee, consumers will, or are highly likely to, receive an unsecured credit card;

2. Section 310.3(a)(4) of the TSR, 16 C.F.R. § 310.3(a)(4), by requesting and/or receiving payment of a fee in advance of consumers obtaining a loan, credit card, or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan, credit card, or other extension of credit;
3. Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B), by engaging in or causing others to engage in initiating an outbound telephone call to a person's telephone number on the National Do Not Call Registry; and
4. Section 310.8 of the TSR, 16 C.F.R. § 310.8, by initiating, or causing others to initiate, an outbound telephone call to a telephone number within a given area code without Defendants first paying the required annual fee for access to the telephone numbers within that area code that are included in the National Do Not Call Registry;

- C. Debiting consumers' bank accounts without authorization; and
- D. Assisting others who violate any provision of Subsections A through C of this

Section.

II.

MAINTAIN RECORDS AND REPORT NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors,

servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Failing to create and maintain books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipt ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately, fairly and completely reflect the incomes, disbursements, transactions, dispositions, and uses of the Defendants' Assets; and

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any books, records, tapes, disks, contracts, agreements, accounting data, handwritten notes, personal and business checks (fronts and backs) - cancelled or otherwise, check registers, correspondence, forms, advertisements, brochures, manuals, telemarketing scripts, sales material, sales presentations, documents evidencing or referring to Defendants' products or services, training material, electronically stored data, banking records, customer lists, customer files, customer addresses and telephone numbers, mailing lists, telemarketer lists, invoices, telephone records, "verification" or "compliance" tapes or other audio or video tape recordings, receipt books, postal receipts, ledgers, payroll records, bank statements, appointment books, copies of business or personal local, state, provincial, or federal income and property tax returns, documents evidencing or referring to Defendants' business operations, or other Documents of any kind, including electronically-stored materials,

that relate to the business practices or business or personal finances of Defendants or other entities directly or indirectly under the control of any Defendant.

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 Plaintiff 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.

III.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, except as provided in Section D below, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined until further order of this Court, from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, or

other Assets, or any interest therein, wherever located, including any Assets outside the territorial United States, that are: (1) owned, controlled or held by, or for the benefit of, in whole or in part, any Defendant; or (2) in the actual or constructive possession of any Defendant, including, but not limited to, any Assets held for or by any Defendant in any account at any bank or savings and loan institution, or any credit card processing agent or agent providing electronic funds transfer services or automated clearing house processing, bank debit processing agent, network transaction processor, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the United States.

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of or for the use or benefit of any Defendant, or subject to access by any Defendant, or under the control of any Defendant, without providing Plaintiff prior notice and an opportunity to inspect the contents in order to determine that they contain no Assets covered by this Section;

C. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Defendant;

D. Notwithstanding the asset freeze provisions of Subsections III.A-C above, Defendants Ranbir Sahni, John Perton, Oliver McKinney, Brian Murphy, and Kirt Charter may, upon compliance with Section V of this Order, pay from their respective individual personal funds, reasonable, usual, ordinary, and necessary living expenses, subject to prior written

agreement with Plaintiff as to the amount released, the applicable time period, and the applicable account or source of funds;

E. Transferring any funds or other Assets subject to this Order for attorneys' fees or living expenses, except from accounts or other Assets identified by prior written notice to Plaintiff and prior approval by the Court. Provided further, that no attorneys' fees or living expenses, other than those set forth in Subsection D, and only in accordance with the procedures set forth in Subsection D, shall be paid from funds or other Assets subject to this Order unless and until the Defendant requesting such funds has completed a sworn financial statement as required by Section V of this Order, and submitted such statement to the Court and served such statement upon counsel for Plaintiff.

The Assets affected by this Section shall include both existing Assets and Assets acquired after the effective date of this Order.

IV.

DUTIES OF THIRD PARTIES

IT IS FURTHER ORDERED that each Person, Financial Institution, or other entity maintaining or having custody or control of any Asset of any Defendant, or that at any time since January 1, 2000, has maintained or had custody of any such Asset, and which is provided with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation or other disposal of any of the Assets or other property held by, under its control, or on behalf of any Defendant in any account maintained in the name of, or for the benefit or use

of, any Defendant, in whole or in part, except as directed by further order of this Court, or by written agreement of Plaintiff and the parties claiming an interest in such account or Asset;

B. Deny Defendants access to any safe deposit boxes, commercial mail boxes or storage facilities that are titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant;

C. Within four (4) business days of the date of notice of this Order, provide to counsel for Plaintiff a certified statement setting forth:

1. The identification of each account or Asset titled in the name, individually or jointly, of any Defendant, or to which any Defendant is a signatory, or which is held on behalf of, or for the benefit or use of, any Defendant or subject to any Defendant's control, including all trust accounts on behalf of any Defendant or subject to any Defendant's control;
2. The balance of each such account, or a description and appraisal of the value of such Asset, as of the close of business on the day on which notice of this Order is received, and, if the account or other Asset has been closed or removed, or more than \$1,000 withdrawn or transferred from it within the last ninety (90) days, the date of the closure or removal of funds, the total funds removed or transferred, and the name and account number of the person or entity to whom such account, funds, or other Asset was remitted; and
3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name individually or

jointly, of any Defendant, or is otherwise subject to access or control by any Defendant.

D. Allow representatives of Plaintiff immediate access to inspect and copy, or upon Plaintiff's request, within five (5) days of said request, provide Plaintiff's representatives with copies of, any records or other Documents pertaining to any such account or Asset, including, but not limited to originals or copies of account applications, corporate resolutions, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

The Assets affected by this Section shall include both existing Assets and Assets acquired after the effective date of this Order.

V.

FINANCIAL STATEMENTS AND ACCOUNTING

IT IS FURTHER ORDERED that at least three (3) calendar days prior to the preliminary injunction hearing in this matter, and in no event later than ten (10) calendar days after entry of this Order, each of the Defendants shall provide to counsel for the FTC:

A. A completed financial statement accurate as of the date of entry of this Order, in the form provided as **Attachment A** for individuals and **Attachment B** for businesses, as the case may be, signed under penalty of perjury;

B. A complete and accurate list of Defendants' customers that purchased any credit-related products, programs, or services or any other substantially similar products, including, if available, the customer's name, address, electronic mail address, date of purchase, type of

product purchased, and the amount paid for the purchase;

C. A detailed accounting of:

1. the names of all products advertised, marketed, promoted, offered for sale, distributed, or sold, by, for, or on behalf of each of the Defendants;
2. gross revenues and net profits (in U.S. Dollars) obtained from the sale of each product identified in Subsection V.C.1. above, from inception of sales through the date of entry of this Order;
3. the full name, address, telephone number, electronic mail address, Web site address, and identification number or code (including affiliate monikers) of each entity or person who advertised, marketed, promoted, offered for sale, distributed, or sold any product for or on behalf of Defendants; and
4. the name, address, telephone number, electronic mail address, Web site address, and contact person of each entity or person that: (i) supplied, manufactured, formulated, or created any product that is advertised, marketed, promoted, offered for sale, distributed, or sold by or on behalf of Defendants, and (ii) provided any order fulfillment services of any kind, including, but not limited to, drop shipping, mailing, and/or distributing products, for or on behalf of Defendants.

The financial statements shall include assets held outside the territory of the United States, shall be accurate as of the date of the entry of this Order, and shall be verified under oath. Defendants shall attach to these completed financial statements copies of all local, state, provincial, and

federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements.

VI.

TEMPORARY RECEIVER

A. APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Nancy A. Ross is appointed Temporary Equity Receiver (“Receiver”) for 3R Bancorp; 3R e-Solutions, Inc.; 3R E-Solutions Corporation; National United Properties, LLC; 3R Real Estate Corporation; E Three R Info Systems Pvt. Ltd.; and any of their affiliates, subsidiaries, divisions, or telephone sales 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. The Receiver shall comply with all Local Rules of this Court governing receivers.

B. RECEIVERSHIP DUTIES

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

1. Assume full control of the Receivership Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, employee, independent contractor, or agent of the Receivership Defendants, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Defendants;
2. 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 held by or under the direction, possession, custody, or control of 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 unfair or deceptive acts or practices alleged in the Complaint in this matter;

3. Take all steps necessary to secure the business premises of the Receivership Defendants. Such steps may include, but are not limited to, the following as the Receiver deems necessary or advisable: (1) serving and filing 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, but not limited to, the name, home address, social security number, job description, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) videotaping all portions of the locations; (5) securing the locations by changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at the locations; (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; and/or (7) employ the assistance of law enforcement officers as he or she deems necessary to implement peacefully the provisions of this Order;

4. Conserve, hold, and manage all receivership Assets, 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 to creditors of the Receivership Defendants, including, but not limited to, obtaining an accounting of the Assets and preventing transfer, withdrawal, or misapplication of Assets, and including the authority to liquidate or close out any open securities or commodity futures positions of the Receivership Defendants;

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

6. 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;

7. Manage and administer the business of the Receivership Defendants until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents;

8. 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;

9. 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;

10. Determine and implement the manner in which the Receivership Defendants will comply with, and prevent violations of, this Order and all other applicable laws, which may include but is not limited to revising sales materials and implementing monitoring procedures;

11. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts that 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;

12. 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 that the Receiver deems necessary and advisable to preserve the Assets of the Receivership Defendants or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

13. Continue and conduct the business of the Receivership Defendants in such manner, to such extent, and for such duration as the Receiver may in good faith deem to be necessary or appropriate to operate the business profitably and lawfully, if at all; provided, however, that the continuation and conduct of the business shall be conditioned upon the Receiver's good faith determination that the business can be lawfully operated at a profit using the Assets of the receivership estate;

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

15. Open one or more bank accounts in the Northern District of Illinois 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;

16. Maintain accurate records of all receipts and expenditures that he makes as Receiver; and

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

C. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that:

1. Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but not be limited to:

- a. Providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order;
- b. Providing any password required to access any computer, electronic file, or telephonic data in any medium; or
- c. Advising all persons who owe money to the Receivership Defendants that all debts should be paid directly to the Receiver.

2. Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from directly or indirectly:

- a. Transacting any of the business of the Receivership Defendants;
- b. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any Documents of the Receivership Defendants, including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations, electronically-stored records, or any other records of any kind or nature;
- 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;
- d. Excusing debts owed to the Receivership Defendants;
- e. Failing to notify the Receiver of any Asset, including accounts, of the Receivership Defendants held in any name other than the name of the Receivership Defendants, or by any person or entity other

than the Receivership Defendants, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody, or control of such Assets;

- f. Doing any act or refraining from any act whatsoever to interfere with the Receiver's taking custody, control, possession, or managing of the Assets or Documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Defendants; or to refuse 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; or
- g. Filing, or causing to be filed, any petition on behalf of any of the Receivership Defendants for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, without prior permission from this Court.

D. DELIVERY OF RECEIVERSHIP PROPERTY

IT IS FURTHER ORDERED that:

- 1. Immediately upon service of this Order upon them, or within such period as may be permitted by the Receiver, Defendants or any other person or entity shall transfer or deliver possession, custody, and control of the following to the Receiver:
 - a. All Assets of the Receivership Defendants;

- b. All Documents of the Receivership Defendants, including, but not limited to, 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 Assets belonging to members of the public now held by the Receivership Defendants; and
- d. All keys, codes and passwords necessary to gain or to secure access to any Assets or Documents of the Receivership Defendants, including, but not limited to, access to their business premises, means of communication, accounts, computer systems, mail boxes, or other property.

2. In the event any person or entity fails to deliver or transfer any Asset or otherwise fails to comply with any provision of this Section, the Receiver may file ex parte an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the Asset, Document, or other thing and to deliver it to the Receiver.

E. TRANSFER OF FUNDS TO THE RECEIVER

IT IS FURTHER ORDERED that, upon service of a copy of this Order, all banks, savings and loan associations, credit unions, depository institutions, finance companies, commercial lending companies, credit card processing agents or agents providing electronic

funds transfer services or automated clearing house processing, brokerage houses, escrow agents, money market or mutual funds, title companies, commodity futures merchants, commodity trading companies, precious metal dealers, trustees, or other financial institutions or depositories of any kind, shall cooperate with all reasonable requests of the Receiver relating to implementation of this Order, including transferring funds at his direction and producing records related to the Assets of the Receivership Defendants.

F. STAY OF ACTIONS

IT IS FURTHER ORDERED that:

1. Except by leave of this Court, during pendency of the receivership ordered herein, Defendants and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, the Receivership Defendants, any of their subsidiaries, affiliates, partnerships, Assets, Documents, or the Receiver or the Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:
 - a. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
 - b. Accelerating the due date of any obligation or claimed obligation; filing, perfecting or enforcing any lien; taking or attempting to take possession, custody, or control of any Asset; attempting to foreclose, forfeit, alter, or terminate any interest in any Asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise, or setoff of any debt owing

to the Receivership Defendants that arose before the date of this Order against any claim against the Receivership Defendants;

- c. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; or
- d. Doing any act or thing whatsoever to interfere with the Receiver taking custody, control, possession, or management of the Assets or Documents subject to this receivership, or to harass or interfere with the Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Defendants.

2. This Order does not stay:

- a. The commencement or continuation of a criminal action or proceeding;
- b. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or
- c. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

3. Except as otherwise provided in this Order, all persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a formal written request to the Receiver, and, if such request has not been responded

to within thirty (30) days of receipt by the Receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

G. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the Assets now held by or 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 this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

H. RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$ 100,000 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.

I. ACCESS TO DEFENDANTS' BUSINESS PREMISES

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or

participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, and the Receiver, shall allow the Commission's 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 their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access. The Commission may remove materials from the Defendants' business premises to inspect, inventory, and copy such materials. The Commission shall return materials so removed within five (5) business days of completing said inventory and copying.

VII.

REPATRIATION OF ASSETS AND DOCUMENTS LOCATED IN FOREIGN COUNTRIES

IT IS FURTHER ORDERED that Defendants shall:

- A. Within three (3) business days following service of this Order, take such steps as are necessary to repatriate to the territory of the United States of America all Documents and Assets that are located outside such territory and are held by or for Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually;
- B. Within three (3) business days following service of this Order, provide Plaintiff with a full accounting of all Documents and Assets that are located outside of the territory of the

United States of America or that have been transferred to the territory of the United States pursuant to Subsection A above and are held by or for any Defendant or are under any Defendant's direct or indirect control, jointly, severally, or individually, including the names and address of any foreign or domestic financial institution or other entity holding the Documents and Assets, along with the account numbers and balances;

C. Hold and retain all such Documents and Assets and prevent any transfer, disposition, or dissipation whatsoever of any such Documents or Assets; and

D. Within three (3) business days following service of this Order, provide Plaintiff access to Defendants' records and Documents held by financial institutions or other entities outside the territorial United States, by signing and delivering to Plaintiff's counsel the Consent to Release of Financial Records attached to this Order as **Attachment C**.

VIII.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, and notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f), 30(a)(2)(A)-(C), and 31(a)(2)(A)-(C), Plaintiff is granted leave, at any time after service of this Order to:

(1) Take the deposition of any person or entity, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the Assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of Documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the

Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action; and

(2) Demand the production of Documents from any person or entity, whether or not a party, relating to the nature, status, and extent of the Assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of Documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action.

Three (3) days notice shall be deemed sufficient for any such deposition, five (5) days notice shall be deemed sufficient for the production of any such Documents, and twenty-four (24) hours notice shall be deemed sufficient for the production of any such Documents that are maintained or stored only as electronic data. The provisions of this Section shall apply both to parties to this case and to non-parties.

The limitations and conditions set forth in Federal Rules of Civil Procedure 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward any limit on the number of depositions under the Federal Rules of Civil Procedure or the Local Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, including those set forth in Federal Rules of Civil Procedure 30(a)(2)(A) and 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made through the means described in Section XIV of this Order.

IX.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, divisions, directors, officers, agents, partners, successors, assigns, employees, attorneys, agents, representatives, sales entities, sales persons, telemarketers, independent contractors, and any other Persons in active concert of participation with them. Within five (5) calendar days following service of this Order by Plaintiff, each Defendant shall file with this Court and serve on Plaintiff, an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

X.

EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on December 2, 2004, at 11:59 p.m. (United States Central Time), unless within such time the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XI.

ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that each Defendant shall appear before this Court on the 2nd day of December, 2004, at 9:30 a.m. at the United States Courthouse, United States District Court for the Northern District of Illinois, Chicago, Illinois, Courtroom 1925, to show cause, if any, why this Court should not enter a preliminary injunction, pending final

ruling on the Complaint, against said Defendants enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales Rule, 16 C.F.R. Part 310, continuing the freeze of their Assets, and imposing such additional relief as may be appropriate.

XII.

SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports or declarations, and/or legal memoranda no later than four (4) business days prior to the hearing on Plaintiff's request for a preliminary injunction.

Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one (1) business day prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (United States Central Time) on the appropriate dates listed in this Section.

XIII.

WITNESS LIST

IT IS FURTHER ORDERED that any party to this action intending to present the testimony of any witness at the hearing on a preliminary injunction in this matter shall, at least three (3) business days prior to the scheduled date and time of hearing, file with this Court and serve on counsel for all other parties, a statement of the name, address, and telephone number of

any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit or declaration revealing the substance of such witness' expected testimony. Service under this Section shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (United States Central Time) on the appropriate dates listed in this Section.

XIV.

SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order may be distributed by U.S. first class mail, overnight delivery, facsimile, electronic mail, or personally, by agents or employees of Plaintiff, by any law enforcement agency, or by private process server, upon any Person, Financial Institution, or other entity that may have possession or control of any property, property right, Documents, or Assets of Defendants, or that may be subject to any provision of this Order. Service upon any branch or office of any Financial Institution or entity shall effect service upon the entire financial institution or entity.

XV.

CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer or credit

report concerning any Defendant to Plaintiff.

XVI.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Guy G. Ward, Esq.
David A. O'Toole, Esq.
Federal Trade Commission
55 E. Monroe Street, Suite 1860
Chicago, IL 60603
(312) 960-5634 [phone]
(312) 960-5600 [facsimile]

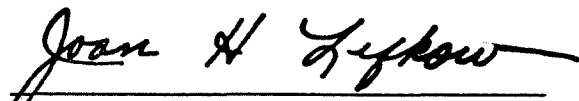
XV.

JURISDICTION

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

IT IS SO ORDERED.

Dated: November 17, 2004


United States District Judge