



2. Venue, process, and service of process are proper;
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 that the Commission is therefore likely to prevail on the merits of this action;
4. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), unless Defendants are restrained and enjoined by Order of this Court;
5. There is good cause to believe 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, assignment, or other disposition or concealment by Defendants of their assets or records absent continuation of the asset freeze and prohibition from destroying records;
6. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b);
7. Weighing the equities and considering the Commission's likelihood of ultimate success, this preliminary injunction, asset freeze, and other relief are in the public interest; and
8. No security is required of any agency of the United States for the issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

#### **DEFINITIONS**

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”** includes, but is not limited to, providing or facilitating the means of obtaining money from consumers, by providing or facilitating access to the credit card or bank account payment and collection system.

3. **“Defendant”** or **“Defendants”** means API Trade LLC; ARA Auto Parts Trading LLC; Bend Transfer Services, LLC; B-Texas European, LLC; CBTC LLC; CMG Global LLC; Confident Incorporation; HDPL Trade LLC; Hometown Homebuyers, LLC; IAS Group LLC; IHC Trade LLC; MZ Services, LLC; New World Enterprizes, LLC; Parts Imports LLC; SMI Imports, LLC; and SVT Services, LLC, and each of them, by whatever names each may be known, and their successors and assigns, and any subsidiaries, affiliates, and any fictitious business entities or business names created or used by them.

4. **“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, 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, financial depository, brokerage house, broker-dealer, commodity trading company, precious metal dealer, escrow agent, money market or mutual fund, storage company, trustee, or any other person, partnership, corporation, or other legal entity maintaining or having control of any records, accounts, or other assets, owned directly or indirectly, of record or beneficially, by

any Defendant, including accounts or assets which any Defendant may control by virtue of being a signatory on said accounts.

6. **“Person”** or **“persons”** 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.

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

**I.**

**PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of 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, including, but not limited to fictitious business names, are hereby restrained and enjoined from:

A. Charging, causing to be charged, or assisting others in charging, any consumer’s credit card or debiting, causing to be debited, or assisting others in debiting, any consumer’s bank account without the consumer’s express informed consent for such charge or debit; and

B. Misrepresenting, or assisting others in misrepresenting, expressly or by implication, that a consumer is obligated to pay any charge or debit that has not been expressly authorized by the consumer.

**II.**

**ASSET FREEZE**

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

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 herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined 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, credit instruments, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other assets, or any interest therein, wherever located, including outside the territorial United States, that are:

1. Owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant;
2. In the actual or constructive possession of any Defendant; or
3. In the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, 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 territorial United States;

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

C. Cashing any checks or depositing any payments from customers of Defendants;

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

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant; or

F. Transferring any funds or other assets subject to this Order for attorney's fees or living expenses, except from accounts or other assets identified by prior written agreement with the Commission; provided that no attorney's fees or living expenses shall be paid from funds or other assets subject to this Order until the financial statements required by Section V are provided to counsel for the Commission.

The funds, property, and assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order.

**III.**

**DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS**

**IT IS FURTHER ORDERED** that, any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant, which is served 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, funds, documents, or other property held by, or under its control:

1. On behalf of, or for the benefit of, any Defendant or any other party subject to Section II above;

2. In any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Defendant or other party subject to Section II above; and

3. That are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section II above;

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either:

1. Titled in the name, individually or jointly, of any Defendant, or other party subject to Section II above; or

2. Subject to access by any Defendant or other party subject to Section II above;

C. Provide the Commission, within five (5) days of the date of service of this Order, a sworn statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section II above, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;

2. The balance of each such account, or a description of the nature and value of such asset;

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 or other party subject to Section II above, whether in whole or in part; and

4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date;

D. The accounts subject to this provision include existing accounts and assets, assets deposited or accounts opened after the effective date of this Order, and any accounts or assets maintained, held or controlled two years prior to the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, or any further order of the Court, or by written agreement of the parties; and

E. Within five (5) days of a request from the FTC, provide to the FTC copies of all records or other documents pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, 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.

**IV.**

**DUTIES OF THIRD PARTIES PROCESSING PAYMENTS FOR DEFENDANTS**

**IT IS FURTHER ORDERED** that, any automated clearing house, network transaction processor, business entity, or person providing any services or assistance in processing Defendants' customer payments, including, but not limited to, payments made by credit or debit card, bank account debit, and/or check, and which is served with a copy of this Order, or otherwise has actual knowledge of this Order, is hereby restrained and enjoined from providing any assistance in the processing of any payments by consumers to any of the Defendants.

**V.**

**FINANCIAL STATEMENTS AND ACCOUNTING**

**IT IS FURTHER ORDERED** that no later than five (5) business days after entry of this Order, unless Defendants have already done so in compliance with the TRO entered by the Court on March 10, 2010, each Defendant shall serve upon counsel for the Commission a completed financial statement accurate as of the date of entry of this Order, signed under penalty of perjury, on the form attached as **Attachment A** to the TRO.

The financial statements shall include assets held outside the territory of the United States, shall be accurate as of the date of 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.

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

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of 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 receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the incomes, disbursements, transactions, dispositions, and uses of Defendants' assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents, including electronically-stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; 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 the Commission with a written statement disclosing: (1) the name of the business entity; (2) the address, telephone

number, e-mail address, and Web site address 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.

**VII.**

**PROHIBITION ON DISCLOSING CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of 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. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, e-mail address, Social Security 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 activities alleged in the FTC's complaint; and

B. Benefitting from or using the name, address, birth date, telephone number, e-mail address, Social Security 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 activities alleged in the FTC's complaint;

Provided, however, that Defendants may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

**VIII.**

**PLAINTIFF'S IMMEDIATE ACCESS TO DEFENDANTS' BUSINESS RECORDS**

**IT IS FURTHER ORDERED** that Defendants shall allow Plaintiff's representatives, agents, and assistants immediate access to all documents relating to Defendants' business practices for the purpose of inspecting and copying such documents. Accordingly, Defendants shall, immediately upon service of this Order:

A. Produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, all documents, referring or related, directly or indirectly, to Defendants' business practices, and/or any materials, information, products, or data related thereto; and

B. Produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, all computers and data in whatever form, used by Defendants, in whole or in part, referring or relating to Defendants' business practices.

The Commission shall return materials produced by Defendants pursuant to this Paragraph within five (5) business days of the production of such materials.

**IX.**

**REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS**

**IT IS FURTHER ORDERED** that Defendants shall:

A. Within three (3) business days following entry of this Order, unless Defendants have already done so in compliance with the TRO entered by the Court on March 10, 2010, take such steps as are necessary to repatriate to the United States all documents and assets held by or for Defendants or for the benefit of any Defendant or under the direct or indirect control of any Defendant, jointly, severally, or individually, that were transferred outside the territory of the United States from within the territory of the United States;

B. Within three (3) business days following entry of this Order, unless Defendants have already done so in compliance with the TRO entered by the Court on March 10, 2010, provide Plaintiff with a full accounting of all documents and assets that are located outside of the territory of the United States 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 addresses of any foreign or domestic financial institution or other entity holding the assets, along with the account numbers and balances;

C. Hold and retain all repatriated 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 entry of this Order, unless Defendants have already done so in compliance with the TRO entered by the Court on March 10, 2010, 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 Information attached to the TRO entered by the Court on March 10, 2010, as **Attachment B**.

**X.**

**INTERFERENCE WITH REPATRIATION**

**IT IS FURTHER ORDERED** that Defendants are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by the preceding Section of this Order, including, but not limited to:

A. Sending any statement, letter, facsimile, e-mail or wire transmission, or telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time that assets have been fully repatriated pursuant to the preceding Section of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time as assets have been fully repatriated pursuant to the preceding Section of this Order.

## XI.

### **EXPEDITED DISCOVERY**

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

A. 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

B. 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 by facsimile or by overnight delivery.

## **XII.**

### **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, partners, divisions, sales entities,

successors, assigns, members, officers, directors, employees, independent contractors, agents, servants, attorneys, spouses, representatives, and any other persons in active concert or participation with them. Within five (5) business days following entry of this Order, Defendants shall serve on Plaintiff an affidavit identifying the name, title, addresses, telephone numbers, date of service, and manner of service of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

**XIII.**

**SERVICE OF ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by U.S. first class mail, overnight delivery, facsimile transmission, electronic mail, or personally, by agents and employees of the Commission or any state, provincial, federal, or international law enforcement agency, or by private process server on (1) Defendants, (2) any financial institution, entity, or person that holds, controls, or maintains custody of any documents or assets of any Defendant, or that held, controlled, or maintained custody of any documents or assets of any Defendant, or (3) any other person or entity 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.

**XIV.**

**CONSUMER REPORTING AGENCIES**

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



XV.

**SERVICE UPON PLAINTIFF**

**IT IS FURTHER ORDERED** that all correspondence and pleadings to the Commission shall be addressed to:


Steven M. Wernikoff  
Federal Trade Commission  
55 West Monroe Street, Suite 1825  
Chicago, Illinois 60603  
(312) 960-5634 [Telephone]  
(312) 960-5600 [Facsimile]

XVI.

**RETENTION OF JURISDICTION**

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

**SO ORDERED**, this 24<sup>th</sup> day of March, 2010.

  
Honorable Ronald A. Guzman  
U.S. District Court Judge