

- 1 **Cordell Bess**, a/k/a Blaine Thompson, also d/b/a JJB)
Marketing, individually and as *de facto* officer of)
2 Defendants Money Now Funding, LLC and Rose)
Marketing, LLC;)
- 3 **Solana DePaola**, individually and as *de facto* officer of)
4 Defendant Money Now Funding, LLC and as)
5 manager/member of Defendant DePaola Marketing,)
LLC;)
- 6 **Jennifer Beckman**, individually and as)
7 manager/member of Defendant Marketing Expert)
Solutions, LLC;)
- 8 **William D. Claspell**, a/k/a Bill Claspell, an individual;)
- 9 **Richard Frost**, a/k/a Richard Strickland, an individual;)
- 10 **Dino Mitchell**, a/k/a Dino Jones, an individual;)
- 11 **Clinton Rackley**, a/k/a Clinton Fosse, an individual;)
- 12 **Lance Himes**, a/k/a Lance R. Himes, a/k/a Raymond L.)
13 Himes, a/k/a Lance Haist, individually and as *de facto*)
principal of Defendants Legal Doxs, LLC and US Doc)
Assist, LLC;)
- 14 **Leary Darling**, individually, as a member and *de facto*)
15 officer of Defendant US Doc Assist, LLC, and as a *de*)
facto officer of Defendant Legal Doxs, LLC;)
- 16 **Donna F. Duckett**, an individual, also d/b/a D&D)
17 Marketing Solutions;)
- 18 **Della Frost**, an individual, also d/b/a ZoomDocs, also)
d/b/a Zoom Docs LLC;)
- 19 **Christopher Grimes**, an individual, also d/b/a Elite)
20 Marketing Strategies;)
- 21 **Alannah M. Harre**, an individual, also d/b/a National)
Marketing Group;)
- 22 **Ronald W. Hobbs**, a/k/a Ron Hobbs, an individual, also)
23 d/b/a Ron Hobbs & Associates, also d/b/a Sales)
Academy USA, LLC;)
- 24 **Janine Lilly**, an individual, also d/b/a Doc Assistant;)
- 25 **Michael McIntyre**, an individual, also d/b/a McIntyre)
26 Marketing;)
- 27 **Benny Montgomery**, an individual, also d/b/a)
Montgomery Marketing;)
28)

1 **Virginia Rios**, an individual, also d/b/a V&R Marketing Solutions; and)

2 **Kendrick Thomas**, an individual, also d/b/a KT Advertising,)

3)
4 Defendants.)

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6 This Court held a hearing on August 14, 2013 regarding the Federal Trade
7 Commission’s (“FTC”) request for a preliminary injunction. Attorney Melvin McDonald
8 appeared on behalf of the Himes Defendants. The Court asked Mr. McDonald whether
9 he had any objection to entry of a Preliminary Injunction in this case. Mr. McDonald
10 stated that he did not.

11 Mr. McDonald has now filed an objection to the FTC’s proposed preliminary
12 injunction order (Doc. 49) that focuses solely on a demand for attorneys’ fees. As was
13 discussed at the hearing, this is a collateral matter.

14 The FTC has filed its Complaint for Permanent Injunction and Other Equitable
15 Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC
16 Act”), 15 U.S.C. §§ 53(b) and 57b, and has applied for a temporary restraining order
17 (“TRO”), asset freeze, other equitable relief, and an order to show cause why a
18 preliminary injunction should not issue pursuant to Rule 65 of the Federal Rules of Civil
19 Procedure. The Court held a show cause hearing on August 14, 2013 at which the
20 Corporate Defendants and the following individual Defendants had the opportunity to
21 present evidence and arguments: Lukeroy K. Rose, Solana DePaola, Jennifer Beckman,
22 William D. Claspell, Richard Frost, Dino Mitchell, Lance Himes, Leary Darling, Donna
23 F. Duckett, Della Frost, Alannah M. Harre, Janine Lilly, Michael McIntyre, Benny
24 Montgomery, and Kendrick Thomas.¹ Attorneys representing Defendants Lukeroy K.
25 Rose and Solana DePaola and attorneys representing Defendants Lance Himes, Leary

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27 ¹ Despite best efforts of the process server, individual defendants Cordell Bess,
28 Clinton Rackley, Ronald Hobbs, Virginia Rios, and Christopher Grimes have not yet
been served with the complaint and TRO papers.

1 Darling, and their corporate entities appeared; no other defendants appeared or were
2 represented. Defense counsel, on behalf of their clients, did not oppose entry of a
3 Preliminary Injunction Order. Accordingly, having considered all the arguments,
4 evidence, and pleadings filed in this matter, the Court now finds as follows.

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6 1. This Court has jurisdiction over the subject matter of this case, jurisdiction
7 over all parties, and venue in this district is proper.

8 2. There is good cause to believe that Defendants Money Now Funding, LLC,
9 Rose Marketing, LLC, DePaola Marketing, LLC, Affiliate Marketing Group, LLC, Legal
10 Doxs, LLC, US Doc Assist, LLC, Affinity Technologies, LLC, Marketing Expert
11 Solutions, LLC, Lukeroy K. Rose, Cordell Bess, Solana DePaola, Jennifer Beckman,
12 William D. Claspell, Richard Frost, Dino Mitchell, Clinton Rackley, Lance Himes, Leary
13 Darling, Donna F. Duckett, Della Frost, Christopher Grimes, Alannah M. Harre, Ronald
14 W. Hobbs, Janine Lilly, Michael McIntyre, Benny Montgomery, Virginia Rios, and
15 Kendrick Thomas have engaged in and are likely to engage in acts and practices that
16 violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC's Trade Regulation Rule
17 entitled "Disclosure Requirements and Prohibitions Concerning Business Opportunities"
18 ("Business Opportunity Rule" or "Rule"), 16 C.F.R. Part 437, as amended, and the FTC's
19 Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR" or "Rule"), 16 C.F.R.
20 Part 310, and that the Commission is likely to prevail on the merits of this action.

21 3. There is good cause to believe that immediate and irreparable harm will
22 result from Defendants' ongoing violations of the FTC Act, the Business Opportunity
23 Rule, and the TSR unless Defendants are restrained and enjoined by Order of this Court.

24 4. There is good cause to believe that immediate and irreparable damage to
25 the Court's ability to grant effective final relief for consumers – including the refund of
26 monies paid, restitution, or rescission or reformation of contract – will occur from the
27 sale, transfer, or other disposition or concealment by Defendants of assets or records, and
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1 that therefore in accordance with Fed. R. Civ. P. 65(b), the interests of justice require that
2 this Order be granted.

3 5. Good cause exists for (a) the appointment of a Permanent Receiver over
4 Corporate Defendants Money Now Funding, LLC; Rose Marketing, LLC; DePaola
5 Marketing, LLC; Affiliate Marketing Group, LLC; Legal Doxs, LLC; US Doc Assist,
6 LLC; Affinity Technologies, LLC; and Marketing Expert Solutions, LLC; (b) freezing of
7 Defendants' assets; and (c) the ancillary relief ordered below.

8 6. Considering Plaintiff's likelihood of ultimate success and weighing the
9 equities, a Preliminary Injunction with asset freeze, the appointment of a Permanent
10 Receiver, and other equitable relief is in the public interest.

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

13 To the extent any of Findings of Fact are more properly characterized as
14 Conclusions of Law, they should be so considered; to the extent any Conclusions of Law
15 are more properly characterized as Findings of Fact, they should be so considered.

16 DEFINITIONS

17 For purpose of this Order, the following definitions shall apply:

18 1. "**Asset**" means any legal or equitable interest in, right to, or claim to, any
19 real, personal, or intellectual property of any Corporate Defendant or Individual
20 Defendant, or held for the benefit of any Corporate Defendant or Individual Defendant,
21 wherever located, including, but not limited to, chattel, goods, instruments, equipment,
22 fixtures, general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares
23 of stock, securities, inventory, checks, notes, accounts, credits, receivables (as those
24 terms are defined in the Uniform Commercial Code), cash, trusts, including, but not
25 limited to, any trust held for the benefit of any of the Defendants, and reserve funds or
26 any other accounts associated with payments processed by, or on behalf of, any of the
27 Defendants, including, but not limited to, reserve funds held by payment processors or
28 financial institutions.

1 2. **“Business Opportunity Rule”** means the FTC Rule entitled “Disclosure
2 Requirements and Prohibitions Concerning Business Opportunities” 16 C.F.R. Part 437,
3 as amended.

4 3. **“Corporate Defendants”** means Money Now Funding, LLC, Rose
5 Marketing, LLC, DePaola Marketing, LLC, Affiliate Marketing Group, LLC, Legal
6 Doxs, LLC, US Doc Assist, LLC, Affinity Technologies, LLC, Marketing Expert
7 Solutions, LLC and their successors and assigns.

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

10 5. The term **“document”** is equal in scope and synonymous in meaning to the
11 usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings,
12 drawings, graphs, charts, photographs, audio and video recordings, computer records, and
13 any other data compilations from which information can be obtained and translated, if
14 necessary, through detection devices into reasonably usable form. A draft or non-
15 identical copy is a separate document within the meaning of the term.

16 6. **“Individual Defendants”** Lukeroy K. Rose, Solana DePaola, Jennifer
17 Beckman, William D. Claspell, Richard Frost, Dino Mitchell, Lance Himes, Leary
18 Darling, Donna F. Duckett, Della Frost, Alannah M. Harre, Janine Lilly, Michael
19 McIntyre, Benny Montgomery, and Kendrick Thomas individually, collectively, or in any
20 combination.

21 7. **“Material”** means likely to affect a person’s choice of, or conduct
22 regarding, opportunities, products or services.

23 8. **“National Do Not Call Registry”** means the registry of telephone numbers
24 maintained by the FTC, pursuant to the Telemarketing Sales Rule, 16 C.F.R. section
25 310.4(b)(1)(iii)(B) , of Persons who do not wish to receive Outbound Telephone Calls to
26 induce the purchase of goods or services.

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1 implication, any false or unsubstantiated representations of any material fact including,
2 but not limited to:

3 A. That any Defendant or other person offers, sells, or provides loans or cash
4 advances;

5 B. The amount of income, earnings, or profits that a person may or is likely to
6 earn, or that other persons have earned;

7 C. That any Defendants or other person will provide, locate, or obtain leads
8 containing the names or contact information of persons potentially interested in
9 Defendants products or services;

10 D. That any Defendant or other person will contact, sell, or provide services to
11 businesses consumers refer;

12 E. The total cost to purchase, receive, or use any products or services; or

13 F. Any material aspect of the performance, efficacy, nature, or central
14 characteristics any product or service.

15 **II.**

16 **PROHIBITIONS RELATED TO THE SALE AND MARKETING OF BUSINESS**
17 **OR WORK AT HOME OPPORTUNITIES**

18 **IT IS ORDERED** that Defendants and their Representatives, whether acting
19 directly or indirectly, in connection with the advertising, marketing, promotion, offering
20 for sale, or sale of any business opportunity or Work-at-home opportunity, are **hereby**
21 **preliminarily restrained and enjoined** from:

22 A. Failing to disclose, or disclose adequately, in writing material information
23 pertaining to the any opportunity at least seven (7) days before the consumer signs a
24 contract or makes a payment in connection with that opportunity including:

- 25 1. Basic identifying information of the seller of the opportunity,
26 including the seller's name, business address, and telephone number;

1 D. Obtaining a personal or secured loan encumbering the assets of any of the
2 Defendants, or any corporation, partnership, or other entity directly or indirectly owned,
3 managed, or controlled by any of the Defendants; or

4 E. Incurring liens or other encumbrances on real property, personal property or
5 other assets titled in the name, singly or jointly, of any of the Defendants or any
6 corporation, partnership, or other entity directly or indirectly owned, managed, or
7 controlled by any of the Defendants.

8 *Provided*, that the assets affected by this Section IV shall include: (1) all assets of
9 any of the Defendants as of the time of issuance of this Order; and (2) assets obtained
10 after the time of issuance of this Order if the assets are derived from the conduct alleged
11 in the Commission's Complaint.

12 *Provided further*, that this Section IV shall not prevent the Individual Defendants
13 from paying bills or making purchases of necessities with funds obtained by them
14 subsequent to imposition of the asset freeze from any legitimate source, such as funds
15 borrowed from family, friends, or others; income from lawful employment; or charges
16 made to those individual defendants' credit cards.

17 V.

18 **DUTIES OF ASSET HOLDERS**

19 **IT IS ORDERED** that any financial or brokerage institution, credit card
20 processing company, payment processor, merchant bank, acquiring bank, independent
21 sales organization, business entity, or person served with a copy of this Order, or who
22 otherwise has actual knowledge of this Order, that (a) holds, controls or maintains
23 custody of any account, safe deposit box, or other asset of any of the Defendants, (b)
24 holds, controls, or maintains custody of any asset associated with credits, debits, or
25 charges made on behalf of any of the Defendants, including, but not limited to, reserve
26 funds held by payment processors or other entities, or (c) has held, controlled, or
27 maintained any such account, safe deposit box, or other asset at any time since August 1,
28 2010 shall:

1 A. Hold and retain within its control and prohibit the withdrawal, removal,
2 assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or
3 other disposal of any such asset, except by further order of the Court;

4 B. Deny any person, except the Receiver acting pursuant to Section XIV of
5 this Order, access to any safe deposit box that is titled in the name of, individually or
6 jointly, or otherwise subject to access by, any of the Defendants;

7 C. Provide the Commission's counsel and to the Receiver, within five (5)
8 business days of receiving a copy of this Order, a sworn statement setting forth:

- 9 1. The identification number of each such account or asset titled in the
10 name, individually or jointly, of any of the Defendants, or held on
11 behalf of or for the benefit of any of the Defendants;
- 12 2. The balance of each such account, or a description of the nature and
13 value of such asset as of the close of business on the day on which
14 this Order is served, and, if the account or other asset has been
15 closed or removed, the date closed or removed, the total funds
16 removed in order to close the account, and the name of the person or
17 entity to whom such account or other asset was remitted; and
- 18 3. The identification of any safe deposit box that is titled in the name
19 of, individually or jointly, or otherwise subject to access by any of
20 the Defendants; and

21 D. Upon request by the Commission, promptly provide the Commission with
22 copies of all records or other documentation pertaining to each such account or asset,
23 including, but not limited to, originals or copies of account applications, account
24 statements, signature cards, checks, drafts, deposit tickets, transfers to and from the
25 accounts, all other debit and credit instruments or slips, currency transaction reports,
26 1099 forms, and safe deposit box logs.

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VI.

FINANCIAL DISCLOSURES

IT IS ORDERED that within three (3) calendar days of service of this Order, each of the Defendants shall prepare and deliver the following forms to counsel for the Commission and to the Receiver:

A. Completed financial statements on the forms attached to this Order as Attachment A (Financial Statement of Individual Defendant) for themselves individually and Attachment B (Financial Statement of Corporate Defendant) for each business entity under which they conduct business or of which they are an officer, and for each trust for which any Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this Order. Each Defendant shall include in the financial statements a full accounting of all funds and assets, whether located inside or outside of the United States, that are: (1) titled in the name of such Defendant, jointly, severally, or individually; (2) held by any person or entity for the benefit of such Defendant; or (3) under the direct or indirect control of such Defendant. 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; and

B. Attachment C (Consent to Release and Request for Copy of Tax Return).

VII.

REPATRIATION OF ASSETS AND DOCUMENTS

IT IS ORDERED that within five (5) days following the service of this Order, each of the Defendants shall:

A. Provide the Commission and the Receiver with a full accounting of all funds, documents, and assets outside of the United States which are: (1) titled in the name, individually or jointly, of any of the Defendants; or (2) held by any person or entity for the benefit of any of the Defendants; or (3) under the direct or indirect control, whether jointly or singly, of any of the Defendants;

1 B. Transfer to the territory of the United States and deliver to the Receiver all
2 funds, documents, and assets located in foreign countries which are: (1) titled in the
3 name individually or jointly of any of the Defendants; or (2) held by any person or entity,
4 for the benefit of any of the Defendants; or (3) under the direct or indirect control of any
5 of the Defendants, whether jointly or singly;

6 C. Provide the Commission access to all records of accounts or assets of any
7 of the Defendants held by financial institutions located outside the territorial United
8 States by signing the Consent to Release of Financial Records appended to this Order as
9 Attachment C.

10 **VIII.**

11 **NON-INTERFERENCE WITH REPATRIATION**

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

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

21 B. Notifying any trustee, protector or other agent of any foreign trust or other
22 related entities of either the existence of this Order, or of the fact that repatriation is
23 required pursuant to a court order, until such time that all assets have been fully
24 repatriated pursuant to Section VII of this Order.

25 **IX.**

26 **CONSUMER CREDIT REPORTS**

27 **IT IS ORDERED that** pursuant to Section 604(a)(1) of the Fair Credit Reporting
28 Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency served with this Order

1 shall promptly furnish consumer reports as requested concerning any of the Defendants to
2 the Commission.

3 **X.**

4 **PRESERVATION OF RECORDS**

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

9 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,
10 altering, transferring, or otherwise disposing of, in any manner, directly or indirectly,
11 Documents that relate to: (1) the business, business practices, Assets, or business or
12 personal finances of any of the Defendants, (2) the business practices or finances of
13 entities directly or indirectly under the control of any of the Defendants, or (3) the
14 business practices or finances of entities directly or indirectly under common control with
15 any other Defendant, including: any and all marketing materials, World Wide Web
16 pages, consumer complaints, rate decks, call detail records, telephone logs, telephone
17 scripts, contracts, correspondence, email, corporate books and records, accounting data,
18 financial statements, receipt books, ledgers, personal and business canceled checks and
19 check registers, bank statements, calendars, appointment books, and tax returns; and

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

23 **XI.**

24 **NOTIFICATION OF NEW BUSINESS ACTIVITY**

25 **IT IS ORDERED** that Defendants and their Representatives, whether acting
26 directly or through any entity, corporation, subsidiary, division, director, manager,
27 member, affiliate, independent contractor, accountant, financial advisor, or other device,
28 are hereby preliminarily restrained and enjoined from creating, operating, or exercising

1 any control over any new business entity, whether newly formed or previously inactive,
2 including any partnership, limited partnership, joint venture, sole proprietorship, or
3 corporation, without first providing counsel for the FTC with a written statement
4 disclosing: (1) the name of the business entity; (2) the address and telephone number of
5 the business entity; (3) the names of the business entity's officers, directors, principals,
6 managers, members, and employees; and (4) a detailed description of the business
7 entity's intended activities.

8 **XII.**

9 **PROHIBITION ON RELEASE OF CONSUMER INFORMATION**

10 **IT IS ORDERED** that Defendants and their Representatives, whether acting
11 directly or indirectly, are hereby preliminarily restrained and enjoined from selling,
12 renting, leasing, transferring, using, disclosing, or otherwise benefitting from the name,
13 address, telephone number, credit card number, bank account number, email address, or
14 other identifying information of any Person who: (1) paid money to the Defendants, (2)
15 was previously contacted by the Defendants in connection with the sale of business
16 opportunities, Work-at-home opportunities, or any service to assist in the creation,
17 advertising, marketing, promotion, or operation of a business opportunity or work-at-
18 home opportunity, including, but not limited to website development, advertising,
19 marketing, lead generation, social media promotion, search engine optimization, training,
20 and business establishment services, (3) who was on a list to be contacted by the
21 Defendants; provided, however, that Defendants may disclose such identifying
22 information to a law enforcement agency or as required by any law, regulation, or court
23 order.

24 **XIII.**

25 **APPOINTMENT OF PERMANENT RECEIVER**

26 **IT IS ORDERED** that Peter S. Davis of Simon Consulting, LLC is appointed
27 permanent receiver for the Receivership Defendants, as well as for any affiliates,
28 subsidiaries, divisions, or telephone sales or customer service operations, wherever

1 located, with the full power of an equity receiver. The Receiver shall be the agent of this
2 Court, and solely the agent of this Court, in acting as Receiver under this Order. The
3 Receiver shall be accountable directly to this Court.

4 **XIV.**

5 **RECEIVER'S DUTIES**

6 **IT IS ORDERED** that the Receiver is authorized and directed to accomplish the
7 following:

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

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

24 C. Take all steps necessary to secure each location from which the
25 Receivership Defendants operate or have operated their businesses. Such steps may
26 include, but are not limited to, any of the following, as the Receiver deems necessary or
27 advisable: (1) serving this Order; (2) completing a written inventory of all Receivership
28 assets; (3) obtaining pertinent information from all employees and other agents of the

1 Receivership Defendants, including, but not limited to, the name, home address, Social
2 Security Number, job description, passwords or access codes, method of compensation,
3 and all accrued and unpaid commissions and compensation of each such employee or
4 agent; (4) photographing and videotaping any or all portions of the location; (5) securing
5 the location by changing the locks and disconnecting any computer modems or other
6 means of access to the computer or other records maintained at that location; and
7 (6) requiring any persons present on the premises at the time this Order is served to leave
8 the premises, to provide the Receiver with proof of identification, or to demonstrate to the
9 satisfaction of the Receiver that such persons are not removing from the premises
10 documents or assets of the Receivership Defendants. Law enforcement personnel,
11 including, but not limited to, police or sheriffs, may assist the Receiver in implementing
12 these provisions in order to keep the peace and maintain security. If requested by the
13 Receiver, the United States Marshals Service will provide appropriate and necessary
14 assistance to the Receiver to implement this Order and is authorized to use any necessary
15 and reasonable force to do so;

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

18 E. Conserve, hold, and manage all assets of the Receivership Defendants, and
19 perform all acts necessary or advisable to preserve the value of those assets in order to
20 prevent any irreparable loss, damage, or injury to consumers or creditors of the
21 Receivership Defendants, including, but not limited to, obtaining an accounting of the
22 assets and preventing the unauthorized transfer, withdrawal, or misapplication of assets;

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

24 G. Prevent the inequitable distribution of assets and determine, adjust, and
25 protect the interests of consumers and creditors who have transacted business with the
26 Receivership Defendants;

27 H. Manage and administer the business of the Receivership Defendants until
28 further order of this Court by performing all incidental acts that the Receiver deems to be

1 advisable or necessary, which includes but is not limited to retaining, hiring, or
2 dismissing any employees, independent contractors, or agents;

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

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

13 K. Institute, compromise, adjust, appear in, intervene in, or become party to
14 such actions or proceedings in state, federal or foreign courts or arbitration proceedings
15 as the Receiver deems necessary and advisable to preserve or recover the assets of the
16 Receivership Defendants, or that the Receiver deems necessary and advisable to carry out
17 the Receiver's mandate under this Order, including, but not limited to, actions
18 challenging fraudulent or voidable transfers;

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

24 M. Issue subpoenas to obtain documents and records pertaining to the
25 Receivership, and conduct discovery in this action on behalf of the Receivership estate;

26 N. Open one or more bank accounts as designated depositories for funds of the
27 Receivership Defendants. The Receiver shall deposit all funds of the Receivership
28 Defendants in such a designated account and shall make all payments and disbursements

1 from the Receivership estate from such an account. The Receiver shall serve copies of
2 monthly account statements on all parties;

3 O. Maintain accurate records of all receipts and expenditures incurred as
4 Receiver;

5 P. Cooperate with reasonable requests for information or assistance from any
6 state or federal law enforcement agency;

7 Q. File reports with the Court on a timely basis and at regular intervals or as
8 otherwise directed by the Court.

9 **XV.**

10 **TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

11 **IT IS ORDERED** that:

12 A. Immediately upon service of this Order upon them, or within a period
13 permitted by the Receiver, Defendants, their Representatives, and any other person or
14 entity with possession, custody or control of assets or documents relating to the
15 Receivership Defendants shall transfer or deliver possession, custody, and control of the
16 following to the Receiver:

- 17 1. All assets of the Receivership Defendants;
- 18 2. All documents of the Receivership Defendants, including, but not
19 limited to, books and records of accounts, all financial and
20 accounting records, balance sheets, income statements, bank records
21 (including monthly statements, canceled checks, records of wire
22 transfers, and check registers), client lists, title documents and other
23 papers;
- 24 3. All assets belonging to other persons or entities whose interests are
25 now under the direction, possession, custody, or control of the
26 Receivership Defendants;
- 27 4. All computers and data in whatever form used to conduct the
28 business of the Receivership Defendants; and

1 providing information to the Receiver that the Receiver deems necessary in order to
2 exercise the authority and discharge the responsibilities of the Receiver under this Order;
3 providing any password required to access any computer, electronic file, or telephonic
4 data in any medium; advising all persons who owe money to the Receivership
5 Defendants that all debts should be paid directly to the Receiver; and transferring funds at
6 the Receiver's direction and producing records related to the assets and sales of the
7 Receivership Defendants. The entities obligated to cooperate with the Receiver under
8 this provision include, but are not limited to, banks, broker-dealers, savings and loans,
9 escrow agents, title companies, commodity trading companies, precious metals dealers
10 and other financial institutions and depositories of any kind, payment processors,
11 payment gateways, insurance companies, as well as all third-party billing agents,
12 common carriers, and other telecommunications companies.

13 **XVIII.**

14 **INTERFERENCE WITH THE RECEIVER**

15 **IT IS ORDERED** that Defendants, their Representatives, corporations,
16 subsidiaries, divisions, or affiliates are hereby restrained and enjoined from directly or
17 indirectly:

18 A. Interfering with the Receiver managing, or taking custody, control, or
19 possession of the assets or documents subject to this Receivership;

20 B. Transacting any of the business of the Receivership Defendants or any
21 substantially similar name;

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

26 D. Destroying, secreting, defacing, transferring, or otherwise altering or
27 disposing of any documents of the Receivership Defendants, including, but not limited to,
28 books, records, accounts, or any other papers;

- 1 E. Excusing debts owed to the Receivership Defendants;
- 2 F. Refusing to cooperate with the Receiver or the Receiver's duly
3 authorized agents in the exercise of their duties or authority under any order of this Court;
4 and
- 5 G. Harassing or interfering with the Receiver in any way.

6 **XIX.**

7 **STAY OF ACTIONS AGAINST RECEIVERSHIP DEFENDANTS**

8 **IT IS ORDERED** that:

- 9 A. Except by leave of this Court, during pendency of the Receivership ordered
10 herein, Defendants, their Representatives, and all investors, creditors, stockholders,
11 lessors, customers and other persons seeking to establish or enforce any claim, right, or
12 interest against or on behalf of Defendants, and all others acting for or on behalf of such
13 persons, are hereby enjoined from taking action that would interfere with the exclusive
14 jurisdiction of this Court over the assets or documents of the Receivership Defendants,
15 including, but not limited to:
 - 16 1. Petitioning, or assisting in the filing of a petition, that would cause
17 any Receivership Defendant to be placed in bankruptcy;
 - 18 2. Commencing, prosecuting, or continuing a judicial, administrative,
19 or other action or proceeding against the Receivership Defendants,
20 including the issuance or employment of process against the
21 Receivership Defendants, *except* that such actions may be
22 commenced if necessary to toll any applicable statute of limitations;
 - 23 3. Filing or enforcing any lien on any asset of the Receivership
24 Defendants; taking or attempting to take possession, custody, or
25 control of any asset of the Receivership Defendants; accelerating the
26 due date of any obligation; or attempting to foreclose, forfeit, alter,
27 or terminate any interest in any asset of the Receivership

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1 Defendants, whether such acts are part of a judicial proceeding, are
2 acts of self-help, or otherwise;

3 4. Initiating any other process or proceeding that would interfere with
4 the Receiver managing or taking custody, control, or possession of,
5 the assets or documents subject to this receivership.

6 *Provided that*, this Order does not stay (1) The commencement or continuation of
7 a criminal action or proceeding; (2) The commencement or continuation of an
8 action or proceeding by a governmental unit to enforce such governmental unit's
9 police or regulatory power; or (3) The enforcement of a judgment, other than a
10 money judgment, obtained in an action or proceeding by a governmental unit to
11 enforce such governmental unit's police or regulatory power.

12 **XX.**

13 **COMPENSATION OF RECEIVER**

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

24 **XXI.**

25 **RECEIVER'S BOND**

26 **IT IS ORDERED** that the Receiver shall maintain with the Clerk of this Court a
27 bond in the sum of \$10,000, with sureties to be approved by the Court, conditioned that
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1 the Receiver will well and truly perform the duties of the office and abide by and perform
2 all acts the Court directs. 28 U.S.C. § 754.

3 **XXII.**

4 **EXPEDITED DISCOVERY**

5 **IT IS ORDERED** that pursuant to Federal Rule of Civil Procedure 26(d)(1),
6 discovery may commence at any time after the entry of this order. In aid of the asset
7 freeze in this matter, the Commission and the Receiver are further authorized to conduct
8 expedited discovery concerning the Defendants' assets and the location of business
9 records ("expedited asset discovery") in accordance with the following:

10 A. The Commission and the Receiver may take the depositions of parties and
11 non-parties. Ninety-six hours (96) notice shall be sufficient notice for such depositions.
12 Deposition transcripts that have not been signed by the witness may be used the
13 preliminary injunction hearing in this matter. The limitations set forth in Federal Rule of
14 Civil Procedure 30(a)(2) and 31(a)(2) regarding subsequent depositions of an individual
15 shall not apply to depositions taken pursuant to this Section, and those depositions shall
16 not count toward the deposition limit set forth in said rules;

17 B. The Commission and the Receiver may serve upon parties requests for
18 production of documents or inspection that require production or inspection within five
19 (5) business days of service, and may serve subpoenas upon non-parties that direct
20 production or inspection within five (5) business days of service;

21 C. The Commission and the Receiver may serve deposition notices and other
22 discovery requests upon the parties to this action by facsimile, overnight courier, or e-
23 mail, and depositions may be taken by telephone or other remote electronic means; and

24 D. Any discovery taken pursuant to this Order is in addition to, and is not
25 subject to, the presumptive limits on discovery set forth in the Federal Rules of Civil
26 Procedure and Local Rules of this Court.

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1 **XXIII.**

2 **SERVICE OF THIS ORDER**

3 **IT IS ORDERED** that copies of this Order may be served by any means,
4 including facsimile transmission and e-mail, upon any Defendant, financial institution, or
5 other entity or Person that may have possession, custody, or control of any documents or
6 assets of any of the Defendants, or that may otherwise be subject to any provision of this
7 Order. Service upon any branch or office of any financial institution shall effect service
8 upon the entire financial institution.

9 **XXIV.**

10 **SERVICE UPON PLAINTIFF**

11 **IT IS ORDERED** that all correspondence and service of pleadings or other
12 documents related to this Order or Plaintiff's motion for a preliminary injunction shall be
13 addressed to

14 Rhonda Perkins
15 Janet Ammerman
16 Federal Trade Commission
17 600 Pennsylvania Ave., NW, Room H-286
18 Washington, DC 20580
19 Fax: 202-326-3395
20 Email: rperkins@ftc.gov; jammerman1@ftc.gov

21 **XXV.**

22 **DEFENDANTS' DUTY TO DISTRIBUTE ORDER**

23 **IT IS ORDERED** that Defendants shall immediately provide a copy of this Order
24 to each of their affiliates, subsidiaries, divisions, sales entities, successors, assigns,
25 officers, directors, employees, independent contractors, client companies, agents,
26 attorneys, spouses, and representatives, and shall, within five (5) days from the date of
27 entry of this Order, provide the Commission with a sworn statement that: (1) confirms
28 that Defendants have provided copies of the Order as required by this paragraph; and (2)
lists the names and addresses of each entity or person to whom Defendants provided a
copy of the Order. Furthermore, Defendants shall not take any action that would
encourage officers, agents, directors, employees, salespersons, independent contractors,

1 attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active
2 concert or participation with them to disregard this Order or believe that they are not
3 bound by its provisions.

4 **XXVI.**

5 **DURATION OF PRELIMINARY INJUNCTION ORDER**


6 **IT IS ORDERED** that this Preliminary Injunction Order shall remain in full force
7 and effect pending trial on the merits unless sooner modified or dissolved.

8 **XXVII.**

9 **RETENTION OF JURISDICTION**

10 **IT IS ORDERED** this Court shall retain jurisdiction of this matter for all
11 purposes.

12 Dated this 19th day of August, 2013.

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16 _____
17 Roslyn O. Silver
18 Chief United States District Judge
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