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UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

**FEDERAL TRADE COMMISSION,**

**Plaintiff,**

v.

**GROUP ONE NETWORKS, INC., a  
corporation also d/b/a Credit Line Gold  
Card, The USA Workers,  
TheUSAWork.com, and  
TheUSAWorkers.com;**

**US GOLD LINE, LLC, a corporation also  
d/b/a USGoldLine.com, Gainesway Credit,  
and GaineswayCredit.com;**

**MY ONLINE CREDIT STORE, LLC, a  
corporation also d/b/a  
MyOnlineCreditStore.com, MyOnlinecr.com,  
Diamond Executive, NewECredit, and  
NewECredit.com;**

**JAMES NICHOLSON, individually and as  
President of Group One Networks, Inc., and  
Manager of US Gold Line, LLC and My  
Online Credit Store, LLC;**

and

**BRETT FISHER, individually and as Chief  
Executive Officer of Group One Networks,  
Inc., and Manager of US Gold Line, LLC  
and My Online Credit Store, LLC,**

**Defendants.**

Case No. 8:09-cv-352-T-26MAP

**EX PARTE TEMPORARY RESTRAINING  
ORDER WITH ASSET FREEZE,  
APPOINTMENT OF A TEMPORARY  
RECEIVER, IMMEDIATE ACCESS TO  
DEFENDANTS' BUSINESS PREMISES,  
AND 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

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Complaint for a Permanent Injunction and Other Equitable 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 the parties.

2. Venue lies properly with this Court.

3. There is good cause to believe that Group One Networks, Inc., US Gold Line, LLC, My Online Credit Store, LLC, James Nicholson, and Brett Fisher (hereinafter “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), as well as multiple provisions of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, 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 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, immediate access to Defendants’ business premises, 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. **"Corporate Defendants"** means Group One Networks, Inc., also doing business as Credit Line Gold Card, The USA Workers, TheUSAWork.com, and TheUSAWorkers.com; US Gold Line, LLC, also doing business as USGoldLine.com, Gainesway Credit, and GaineswayCredit.com; My Online Credit Store, LLC, also doing business as MyOnlineCreditStore.com, MyOnlinecr.com, Diamond Executive, NewECredit, and NewECredit.com; and by whatever other names each may be known, and any subsidiaries, affiliates, and any fictitious business entities or business names created or used by these entities, or any of them.

3. **"Defendant"** or **"Defendants"** means (a) each Corporate Defendant; and (b) each

Individual Defendant.

4. **“Document”** or **“Documents”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and encompasses both paper documents and electronically stored information, including writings, drawings, graphs, charts, photographs, audio and video recordings, images, and other data compilations stored in any medium from which information can be obtained either directly or, if necessary, after translation by Defendants into a reasonably usable form. A draft or nonidentical copy is a separate Document within the meaning of the term.

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

6. **“Individual Defendants”** means James Nicholson and Brett Fisher.

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

8. **“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.

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

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

11. **“Telemarketing”** means any plan, program or campaign (whether or not covered

by the TSR, 16 C.F.R. Part 310) that is conducted to induce the purchase of goods or services by means of the use of one or more telephones.

**I.**

**PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that in connection with the advertising, promoting, offering for sale, or sale of any credit-related product or service, 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 temporarily restrained and enjoined from:

- A. Making or assisting others in making, directly or by implication, any false or misleading oral or written statement or representation of material fact;
- B. Misrepresenting, either orally or in writing, expressly or by implication, that:
  - 1. after payment of a fee, Defendants will provide consumers with a general-purpose credit card;
  - 2. consumers will or are likely to be able to secure cash advances against a credit cards' line of credit; and
  - 3. Defendants report consumers' credit histories to the credit bureaus;
- C. Failing to disclose, or disclose adequately, Material terms and conditions of any offer of any credit-related good or service, including with respect to any credit card offer, all fees

and expenses; any restrictions on use of the credit card, including any required down payment prior to making purchases, and any requirement that the card can be used only to make purchases from a limited catalog of items; and any restrictions on use of vouchers provided to consumers by Defendants;

D. Debiting a consumer's bank account, or otherwise assessing charges to a consumer, without first obtaining the consumer's express verifiable authorization as defined by the Section 310.3(a)(3) of the TSR, 16 C.F.R. § 310.3(a)(3); and

E. Violating, or assisting others in violating, any provision of the TSR, 16 C.F.R. Part 310, including, but not limited to:

1. Section 310.3(a)(1)(i) of the TSR, 16 C.F.R. § 310.3(a)(1)(i), by failing to disclose truthfully, in a clear and conspicuous manner, before a consumer pays for the goods or services offered, the total cost to purchase, receive, or use the goods or services that are the subject of any sales offer;
2. Section 310.3(a)(1)(ii) of the TSR, 16 C.F.R. § 310.3(a)(1)(ii), by failing to disclose truthfully, in a clear and conspicuous manner, before a consumer pays for the goods or services offered, all material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer;
3. Section 310.3(a)(1)(iii) of the TSR, 16 C.F.R. § 310.3(a)(1)(iii), by failing to disclose truthfully, in a clear and conspicuous manner, before a consumer pays for the goods or services offered, if the seller has a policy of not making refunds, cancellations, exchanges, or repurchases;

4. Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii), by misrepresenting, directly or by implication, material aspects of the performance, efficacy, nature, or central characteristics of any product or service Defendants sell;
5. Section 310.4(a)(4) of the TSR, 16 C.F.R. § 310.4(a)(4), by requesting or receiving payment of a fee or consideration in advance of consumers obtaining a credit card when the Defendants have guaranteed or represented a high likelihood of success in obtaining or arranging the acquisition of a credit card for such consumers;
6. Section 310.4(b)(1)(iii)(A) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(A), by engaging in or causing others to engage in initiating any outbound telemarketing call to a person when that person has previously stated that he or she does not wish to receive an outbound telephone call made by or on behalf of Defendants;
7. 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 that is on the National Do Not Call Registry; and
8. Section 310.8 of the TSR, 16 C.F.R. § 310.8, by failing to pay the required annual fee for access to the telephone numbers included on the National Do Not Call Registry.

## 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 disbursement 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 Defendants' Assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any Documents, including electronically-stored information, 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, limited liability company, 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 herein, 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 Part;

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

D. Incurring liens or other encumbrances on real property, personal property or other Assets titled in the name, singly or jointly, of any Defendant.

The Assets affected by this Part 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, 2008, 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 five (5) business days of the date of notice of this Order, provide to counsel for Plaintiff and the Receiver 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; and

D. Allow representatives of Plaintiff and the Receiver 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 Part 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 each Defendant shall serve upon counsel for the Commission and the Receiver, no later than five (5) business days after service of this Order, 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.

The financial statements shall include all Assets, including 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.

### **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 and the Receiver 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 of America pursuant to Section 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 addresses and names 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 and the Receiver 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**.

## **VII.**

### **APPOINTMENT OF TEMPORARY RECEIVER**

**IT IS FURTHER ORDERED** that Mark J. Bernet is appointed temporary receiver for the Corporate Defendants. 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.

## **VIII.**

### **RECEIVER'S DUTIES**

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

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

B. Take exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control of, the Corporate 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 Corporate Defendants and other persons or entities whose interests are now under the direction, possession, custody, or control of, the Corporate Defendants. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to the Corporate 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 or other violations of law alleged in the Complaint in this matter, without prior Court approval;

C. Take all steps necessary to secure each location from which the Corporate Defendants operate their business. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable: (1) serving this Order; (2) completing a written inventory of all Receivership Assets; (3) obtaining pertinent information from all employees and other agents of the Corporate Defendants, including, but not limited to, the name, home address, Social Security Number, job description, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such

employee or agent; (4) photographing and video taping any or all portions of the location; (5) securing the location by changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at that location; and (6) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises Documents or Assets of the Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

D. Conserve, hold, and manage all Assets of the Corporate Defendants, and perform all acts necessary or advisable to preserve the value of those Assets in order to prevent any irreparable loss, damage, or injury to consumers or creditors of the Corporate Defendants, including, but not limited to, obtaining an accounting of the Assets and preventing the unauthorized transfer, withdrawal, or misapplication of Assets;

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

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

G. Manage and administer the business of the Corporate Defendants in a manner

consistent with this Order until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes but is not limited to retaining, hiring, or dismissing any employees, independent contractors, or agents;

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

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

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

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

L. 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 Corporate Defendants, as the Receiver deems necessary and advisable to preserve the Assets of the Corporate Defendants, or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

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

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

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

P. Allow the Commission's representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conducts 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 Corporate Defendants or its agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access;

Q. Allow the Commission's representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to Documents in the

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

R. Cooperate with reasonable requests for information or assistance from the Commission and any state or federal law enforcement.

## **IX.**

### **TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

**IT IS FURTHER ORDERED** that Defendants, their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise, and any other person or entity with possession, custody or control of property of or records relating to the Corporate Defendants shall upon notice of this Order by personal service or otherwise immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All Assets of the Corporate Defendants;
- B. All Documents of the Corporate 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 computers and data in whatever form used to conduct the business of the Corporate Defendants;

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

E. All keys, codes, and passwords necessary to gain or to secure access to any Assets or Documents of the Corporate Defendants, including, but not limited to, access to their business premises, means of communication, accounts, computer systems, or other property.

In the event that any person or entity fails to deliver or transfer any Asset or otherwise fails to comply with any provision of this Part IX, 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 item covered by this Part IX and to deliver it to the Receiver.

## X.

### PROVISION OF INFORMATION TO RECEIVER

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

A. A list of all Assets and property, including accounts, of the Corporate Defendants

that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant; and

B. A list of all agents, employees, officers, servants or those persons in active concert and participation with the Individual Defendants and Corporate Defendants, who have been associated or done business with the Corporate Defendants.

## **XI.**

### **COOPERATION WITH THE RECEIVER**

**IT IS FURTHER ORDERED** that Defendants, their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise, and all other persons or entities served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Assets of the Corporate Defendants. This cooperation and assistance shall include, but not be limited to: providing information to the Receiver that the Receiver deems necessary in order to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; advising all persons who owe money to the Corporate Defendants that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the Assets and sales of the Corporate Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious

metals dealers and other financial institutions and depositories of any kind, and all third-party billing agents, common carriers, and other telecommunications companies, that have transacted business with the Corporate Defendants.

## **XII.**

### **NO INTERFERENCE WITH THE RECEIVER**

**IT IS FURTHER ORDERED** that Defendants and their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from directly or indirectly:

A. Interfering with the Receiver managing, or taking custody, control, or possession of, the Assets or Documents subject to this Receivership;

B. Transacting any of the business of the Corporate Defendants;

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

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

## **XIII.**

### **STAY OF ACTIONS AGAINST CORPORATE DEFENDANTS**

**IT IS FURTHER ORDERED** that, except by leave of this Court, during pendency of

the Receivership ordered herein, Defendants, their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the Assets or Documents of the Corporate Defendants, including, but not limited to:

A. Petitioning, or assisting in the filing of a petition, that would cause any Corporate Defendant to be placed in bankruptcy;

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations;

C. Filing or enforcing any lien on any Asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any Asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise; and

D. Initiating any other process or proceeding that would interfere with the Receiver managing or taking custody, control, or possession of, the Assets or Documents subject to this

receivership.

*Provided* that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) 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.

#### XIV.

#### RECEIVER'S REPORTS

**IT IS FURTHER ORDERED** that the Receiver shall report to this Court at least one (1) day prior to the show cause hearing: (1) the steps taken by the Receiver to implement the terms of this Order; (2) the value of all liquidated and unliquidated Assets of the Corporate Defendants; (3) the sum of all liabilities of the Corporate Defendants; (4) the steps the Receiver intends to take in the future to (a) prevent any diminution in the value of the Assets of the Corporate Defendants, (b) pursue receivership Assets from third parties, and (c) adjust the liabilities of the Corporate Defendants, if appropriate; (5) if corporate defendants are viable businesses if managed in compliance with this Order; and (6) Receiver believes should be brought to the Court's attention. *Provided, however*, if any of the required information would hinder the Receiver's ability to pursue receivership Assets, the portions of the Receiver's report containing such information may be filed under seal and not served on the parties.

#### XV.

## **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, in the possession or control of, or which may be received by, the Corporate Defendants. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of entry of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

### **XVI.**

#### **RECEIVER'S BOND**

**IT IS FURTHER ORDERED** that the Receiver shall file with the Clerk of this Court a bond in the sum of \$10,000.00 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs. 28 U.S.C. § 754.

### **XVII.**

#### **ACCESS TO BUSINESS OFFICES AND RECORDS**

**IT IS FURTHER ORDERED** that, in order to allow the Commission and the Receiver to preserve Assets and evidence relevant to this action, and to expedite discovery in anticipation of the Preliminary Injunction hearing, Plaintiff and the Receiver, and their representatives,

agents, and assistants, shall have immediate access to the Corporate Defendants' business premises. Such locations include, but are not limited to: (1) 2300 Tall Pines Drive, Suite 126, Largo, FL 33771; (2) 2300 Tall Pines Drive, Suite 125, Largo, FL 33771; (3) 2300 Tall Pines Drive, Suite 123, Largo, FL 33771; and (4) 4465 West Gandy Boulevard, Suite 700, Tampa, FL 33611, or any other location used to store records. The Commission and the Receiver, and their representatives, agents, and assistants, are authorized to employ the assistance of the U.S. Marshal's office and other law enforcement officers as they deem necessary to effect service and to implement peacefully the provisions of this Order. The Commission and the Receiver, and their representatives, agents, and assistants, are authorized to remove Documents from the Corporate Defendants' premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action.

### **XVIII.**

#### **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)-(C), and 31(a)(2)(A)-(C), Plaintiff is granted leave, at any time after service 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 Part 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 Part. Any such depositions taken pursuant to this Part 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 Middle District of Florida, 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 Part, shall be sufficient if made through the means described in Part XXIII of this Order.

**XIX.**

**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 and the Receiver, 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.

**XX.**

**EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER**

**IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein shall expire on Wednesday, March 11, 2009, at 11:59 p.m. (Eastern Standard 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.

**XXI.**

**ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED** that each Defendant shall appear before this Court on the Wednesday, the 11<sup>th</sup> day of March, 2009, at 9:00 a.m. at the United States Courthouse, United

States District Court for the Middle District of Florida, Tampa, Florida, Courtroom 15B, 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 TSR, 16 C.F.R. Part 310, continuing the freeze of their Assets, permanently continuing the Receivership, and imposing such additional relief as may be appropriate.

**XXII.**

**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. (Eastern Standard Time) on the appropriate dates listed in this Part.

**XXIII.**

**MOTION FOR LIVE TESTIMONY; WITNESS IDENTIFICATION**

**IT IS FURTHER ORDERED** that the question of whether this Court should enter a

preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendants during the pendency of this action shall, in accordance with Local Rule 4.06 of the Middle District of Florida, be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. Live testimony shall be heard only on further order of this Court or on motion filed with the Court and served on counsel for the other parties at least three (3) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties at least two (2) business days 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. (Eastern Standard Time) on the appropriate dates provided in this Section.

#### **XXIV.**

#### **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 or the Receiver, 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, Document, or Asset of any Defendant, or that may be subject to any provision of this Order. Service upon any branch or office of any Financial Institution or entity shall constitute service upon the entire financial institution or entity.

**XXV.**

**CONSUMER REPORTING AGENCIES**

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

**XXVI.**

**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:

J. Ronald Brooke, Jr.  
Stephen L. Cohen  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Washington, DC 20580  
(202) 326-3484, 326-2204 [telephone]  
(202) 326-3261 [facsimile]  
jbrooke@ftc.gov, scohen@ftc.gov [email]

**XXVII.**

**JURISDICTION**

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

**IT IS SO ORDERED.**

Dated: February 25, 2009, at 11:39 a.m.



United States District Judge  
Richard A. Lazzara

I certify the foregoing to be a true  
and correct copy of the original.  
SHERYLL LOESCH, Clerk  
United States District Court  
Middle District of Florida

By: Brandi S. Napier  
Deputy Clerk