

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 FEDERAL TRADE COMMISSION,

Case no. SACV10-1161-JVS-RNBx

11 Plaintiff,

12 v.

13 HEALTH CARE ONE LLC, an Arizona
14 limited liability company, also d/b/a
15 "HealthcareOne," "Americans4
16 Healthcare," "Citizens4Healthcare,"
17 "American Eagle Healthcare,"
18 "EasyLife Healthcare," "Elite
19 Healthcare," "Global Healthcare," and
20 "Republic Healthcare";

AMERICANS4HEALTHCARE INC., a
Delaware corporation;

MICHAEL JAY ELLMAN, an
individual;

ELITE BUSINESS SOLUTIONS, INC.,
a Nevada corporation, also d/b/a
"EasyLife Healthcare," "Elite
Healthcare" and "Republic Healthcare";

ROBERT DANIEL FREEMAN, an
individual;

Defendants.

PRELIMINARY INJUNCTION WITH
ASSET FREEZE, APPOINTMENT OF
PERMANENT RECEIVER, AND
OTHER EQUITABLE RELIEF
AGAINST DEFENDANTS
ELITE BUSINESS SOLUTIONS, INC.,
ALSO D/B/A
"EASYLIFE HEALTHCARE,"
"ELITE HEALTHCARE" AND
"REPUBLIC HEALTHCARE"; AND
ROBERT DANIEL FREEMAN

21
22
23
24
25
26
27
28

1 On August 3, 2010, Plaintiff Federal Trade Commission (“Commission” or
2 “FTC”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act
3 (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, filed a Complaint for a permanent
4 injunction and other equitable relief against Health Care One LLC (“Health Care
5 One”), Americans4Healthcare Inc. (“Americans4Healthcare”), Elite Business
6 Solutions, Inc. (“Elite Business Solutions”), Michael Jay Ellman, and Robert Daniel
7 Freeman (also known as Dan Freeman). Plaintiff concurrently applied *ex parte* for a
8 Temporary Restraining Order (“TRO”), and for an Order to Show Cause (“OSC”)
9 why a preliminary injunction should not be granted and why a permanent receiver
10 should not be appointed over the corporate Defendants. On August 3, 2010, the
11 Court entered a TRO, which would expire on, and scheduled a hearing on the OSC
12 for, August 13, 2010. On August 11, 2010, the Court extended the TRO for good
13 cause shown through, and rescheduled the OSC hearing for, August 27, 2010.

14 The parties having stipulated to entry of a preliminary injunction, and for good
15 cause shown, the Court hereby enters this Preliminary Injunction With Asset Freeze,
16 Appointment of Permanent Receiver and Other Equitable Relief:

17 **FINDINGS OF FACT**

18 1. This Court has jurisdiction over the subject matter of this case and
19 personal jurisdiction over Defendants Elite Business Solutions, Inc., also doing
20 business as Elite Healthcare, Republic Healthcare, and EasyLife Healthcare, and
21 Robert Daniel Freeman.

22 2. Venue lies properly with this Court.

23 3. For purposes of this Order, the Complaint states a claim upon which
24 relief may be granted.

25 4. There is good cause to believe that Defendants have engaged in and are
26 likely to engage in acts that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
27 and the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310, and that the
28 Commission is likely to prevail on the merits of this action.

1 5. There is good cause to believe that immediate and irreparable harm will
2 result from Defendants' ongoing violations of the FTC Act unless Defendants are
3 restrained and enjoined by Order of this Court.

4 6. Good cause exists for the appointment of a Permanent Receiver over the
5 Corporate Defendant, as well as any successors, assigns, affiliates, and subsidiaries
6 that conduct any business related to the Defendants' "national healthcare discount
7 program" and which the Permanent Receiver has reason to believe are owned or
8 controlled in whole or in part by any of the Defendants.

9 7. There is good cause to believe that immediate and irreparable damage to
10 the Court's ability to grant effective final relief for consumers – including refunds,
11 rescission and restitution, disgorgement or other equitable monetary relief – will
12 occur from the sale, transfer, or other disposition or concealment by Defendants of
13 assets or records unless Defendants are immediately restrained and enjoined by
14 Order of this Court.

15 8. Considering Plaintiff's likelihood of ultimate success and weighing the
16 equities, a Preliminary Injunction ("Order") with an asset freeze, the appointment of
17 a Permanent Receiver, and other equitable relief is in the public interest.

18 9. No security is required of any agency of the United States for issuance
19 of a restraining order. Fed. R. Civ. P. 65(c).

20 10. Nothing herein shall be deemed an admission of wrongdoing, an
21 admission of any allegation in the complaint in this action, or a waiver of any
22 defense or privilege, by Defendants.

23 11. Defendant Freeman expressly reserves the right to apply to the Court for
24 an order modify this preliminary injunction to permit him to pay reasonable and
25 necessary and ordinary living expenses and/or attorneys' fees and costs from frozen
26 funds, in addition to any monetary releases agreed to by the FTC pursuant to Section
27 III.A. of this Order.

28

1 **ORDER**

2 DEFINITIONS

3 For purposes of this Order, the following definitions shall apply:

4 1. **“Plaintiff”** means the Federal Trade Commission.

5 2. **“Defendants”** refers to Defendants Elite Business Solutions, Inc., also
6 d/b/a “EasyLife Healthcare,” “Elite Healthcare” and “Republic Healthcare,” and
7 Robert Daniel Freeman, and each of them, by whatever names each might be known
8 by, as well as their successors and assigns, whether acting directly or through any
9 corporation, subsidiary, division, or other device, including, but not limited to,
10 fictitious business names.

11 3. **“Corporate Defendant”** refers to Defendant Elite Business Solutions,
12 Inc., also d/b/a “EasyLife Healthcare,” “Elite Healthcare” and “Republic
13 Healthcare.”

14 4. **“Individual Defendant”** refers to Defendant Robert Daniel Freeman.

15 5. **“Receivership Defendants”** refers to Elite Business Solutions, Inc.,
16 also d/b/a “EasyLife Healthcare,” “Elite Healthcare” and “Republic Healthcare,”
17 Mile High Enterprise, Inc., Freeman Consulting, and Lighthouse Business Solutions
18 LLC, as well as any successors, assigns, affiliates, and subsidiaries that conduct any
19 business related to the Defendants’ “national healthcare discount program” and
20 which the Permanent Receiver has reason to believe are owned or controlled in
21 whole or in part by any of the Defendants.

22 6. **“Assisting others”** means knowingly providing any of the following
23 goods or services to another person or entity:

- 24 a. performing customer service functions, including, but not limited
25 to, receiving or responding to consumer complaints; or
26 b. formulating or providing, or arranging for the formulation or
27 provision of, any telephone sales script or any other marketing
28 material; or

- 1 c. providing names of, or assisting in the generation of, potential
2 customers; or
3 d. performing marketing services of any kind.

4 7. “**Assets**” means any legal or equitable interest in, right to, or claim to,
5 any real or personal property, including, without limitation, chattels, goods,
6 instruments, equipment, fixtures, general intangibles, leaseholds, mail or other
7 deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares
8 of stock, and all cash, wherever located.

9 8. The term “**document**” is equal in scope and synonymous in meaning to
10 the terms “document” and “electronically stored information,” as described and used
11 in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs,
12 charts, photographs, audio and video recordings, computer records, and any other
13 data compilations from which information can be obtained. A draft or non-identical
14 copy is a separate document within the meaning of the term.

15 9. “**Material fact**” means any fact that is likely to affect a person’s choice
16 of, or conduct regarding, goods or services.

17 10. “**Person**” means a natural person, organization, or other legal entity,
18 including a corporation, partnership, proprietorship, association, cooperative, or any
19 other group or combination acting as an entity.

20 **I.**

21 **PROHIBITED REPRESENTATIONS**

22 **IT IS THEREFORE ORDERED** that Defendants and their successors,
23 assigns, officers, agents, servants, employees, and attorneys, and those persons or
24 entities in active concert or participation with any of them who receive actual notice
25 of this Order by personal service or otherwise, whether acting directly or through any
26 corporation, subsidiary, division, or other device, in connection with the advertising,
27 marketing, promotion, offering for sale or sale of any good or service, **are hereby**
28 **restrained and enjoined** from falsely representing, or from assisting others who are

1 A. Violating Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R.
2 § 310.3(a)(2)(iii), by misrepresenting, directly or by implication, material aspects of
3 the performance, efficacy, nature, or central characteristics of the program, including
4 that:

- 5 1. The program that Defendants are selling or marketing is health
6 insurance;
- 7 2. Enrollment in the program that Defendants are selling or
8 marketing will result in substantial healthcare savings to the
9 consumer;
- 10 3. Consumers who enroll in the program that Defendants are selling
11 or marketing will be able to obtain program benefits from the
12 consumers' current healthcare providers and from other
13 healthcare providers in the consumers' local communities; or
- 14 4. Any other fact material to a consumer's decision to purchase any
15 good or service from Defendants; and

16 B. Violating Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R.
17 § 310.3(a)(2)(iv), by misrepresenting, directly or by implication, material aspects of
18 the nature or terms of the seller's refund or cancellation policies, including that
19 Defendants will provide a full refund, subject to no or only a nominal processing fee,
20 if the consumer submits a cancellation request before the thirty-day trial period
21 expires.

22 III.

23 ASSET FREEZE

24 **IT IS FURTHER ORDERED** that each of the Defendants is hereby
25 restrained and enjoined, until further order of this Court, from:

26 A. Transferring, encumbering, selling, concealing, pledging,
27 hypothecating, assigning, spending, withdrawing, disbursing, conveying, gifting,
28 dissipating, or otherwise disposing of any funds, property, coins, lists of consumer

1 names, shares of stock, or other assets, wherever located, that are (1) owned or
2 controlled by any of the Defendants, in whole or in part; (2) in the actual or
3 constructive possession of any of the Defendants; (3) held by an agent of any of the
4 Defendants, as a retainer for the agent's provision of services to a Defendant; or (4)
5 owned, controlled by, or in the actual or constructive possession of, or otherwise
6 held for the benefit of, any corporation, partnership, or other entity directly or
7 indirectly owned or controlled by any of the Defendants; *provided*, however,
8 Defendants may make such transfers or withdrawals authorized in writing by counsel
9 for Plaintiff, or by the Permanent Receiver (with respect to assets of any of the
10 Receivership Defendants), or by further order of this Court;

11 B. Opening or causing to be opened any safe deposit boxes titled in the
12 name of any of the Defendants, or subject to access by any of the Defendants;

13 C. Incurring charges or cash advances on any credit or debit card issued in
14 the name, singly or jointly, of any of the Defendants, or any corporation, partnership,
15 or other entity directly or indirectly owned or controlled by any of the Defendants;
16 *provided*, however, that Defendant Freeman may incur charges or take cash advances
17 on any credit card issued in his name, as long as the combined balance of all such
18 charges or cash advances does not exceed \$5,000 at any one time. Defendant
19 Freeman shall be responsible for repayment of such charges and cash advances out
20 of his non-frozen assets; and

21 D. Failing to disclose to Plaintiff, immediately upon service of this Order,
22 information that fully identifies each asset of the Defendants, and each entity holding
23 such asset, including, without limitation, the entity's name, address, and telephone
24 number, the number of the account, and the name under which the account is held.

25 *Provided*, that the freeze imposed in this Section shall be construed to not
26 apply to assets that the Individual Defendant acquires following service of this Order
27 if the Individual Defendant can prove that such assets are not derived from activity
28 prohibited by this Order.

1 **IV.**

2 **FINANCIAL REPORTS**

3 **IT IS FURTHER ORDERED** that, if they have not already done so pursuant
4 to the TRO, within seventy-two (72) hours after service of this Order:

5 A. The Individual Defendant shall complete and deliver to Plaintiff the
6 Financial Statement form captioned “Financial Statement of Individual Defendant,” a
7 copy of which is attached as Attachment 2 to the “Financial Statement Forms for
8 Section IV (Financial Reports) of the Temporary Restraining Order with Asset
9 Freeze, Appointment of Temporary Receiver, Immediate Access, and Other
10 Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should
11 Not Issue and a Permanent Receiver Should Not Be Appointed” filed in this action;

12 B. The Individual Defendant shall prepare and deliver to Plaintiff and the
13 Permanent Receiver, for the Corporate Defendant, the Financial Statement captioned
14 “Financial Statement of Business Entity Defendant,” a copy of which is attached as
15 Attachment 1 to the “Financial Statement Forms for Section IV (Financial Reports)
16 of the Temporary Restraining Order with Asset Freeze, Appointment of Temporary
17 Receiver, Immediate Access, and Other Equitable Relief, and Order to Show Cause
18 Why a Preliminary Injunction Should Not Issue and a Permanent Receiver Should
19 Not Be Appointed” filed in this action;

20 C. The Individual Defendant shall, on behalf of each business entity
21 (whether a partnership, limited partnership, joint venture, sole proprietorship, limited
22 liability company, corporation, or otherwise) of which he is the majority owner or
23 otherwise controls, other than the Corporate Defendant, complete and deliver to
24 Plaintiff a separate copy of the “Financial Statement of Business Entity Defendant”;
25 and

26 D. Defendants shall provide access to records and documents pertaining to
27 assets of any of the Defendants that are held by financial institutions outside the
28 territory of the United States by signing a Consent to Release of Financial Records if

1 requested by Plaintiff or the Temporary Receiver.

2 **V.**

3 **PRESERVATION OF RECORDS**

4 **IT IS FURTHER ORDERED** that Defendants, and their agents, servants,
5 employees, and attorneys, and all persons or entities directly or indirectly under the
6 control of any of them, and all other persons or entities in active concert or
7 participation with any of them who receive actual notice of this Order by personal
8 service or otherwise, and each such person, are hereby restrained and enjoined from
9 destroying, erasing, mutilating, concealing, altering, transferring or otherwise
10 disposing of, in any manner, directly or indirectly, any documents that relate to the
11 business practices or finances of any of the Defendants, including, but not limited to,
12 such documents as any contracts, accounting data, correspondence, advertisements,
13 computer tapes, discs or other computerized records, books, written or printed
14 records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers,
15 personal and business canceled checks and check registers, bank statements,
16 appointment books, copies of federal, state, or local business or personal income or
17 property tax returns.

18 This Section specifically applies to all documents displayed on or accessible
19 from any and all Internet websites owned or controlled by any Defendant, including
20 but not limited to any of the websites with the following domain names:

21 www.healthcareone.com, www.americans4healthcare.com, www.a4hrx.com,
22 www.citizens4healthcare.com, www.elitehealthcareinc.com,
23 www.republichealthcare.com, www.easylifehealthcare.com,
24 www.americaneaglehealthcare.com, and www.myglobalhealthonline.com.

25 **VI.**

26 **RECORD KEEPING**

27 **IT IS FURTHER ORDERED** that the Individual Defendant is hereby
28 restrained and enjoined from failing to make and keep, and to provide to Plaintiff's

1 counsel promptly upon request, an accurate accounting that, in reasonable detail,
2 accurately, fairly, and completely reflects his income (including all income resulting
3 from any services, activity, or efforts rendered by the Individual Defendant),
4 disbursements, transactions, and use of money, beginning immediately upon service
5 or actual notice of this Order, and continuing daily until otherwise ordered by the
6 Court.

7 **VII.**

8 **NOTIFICATION OF BUSINESS ACTIVITIES**

9 **IT IS FURTHER ORDERED** that:

10 A. The Individual Defendant is hereby restrained and enjoined from
11 directly or indirectly creating, operating, or exercising any control over any business
12 entity, including any partnership, limited partnership, joint venture, sole
13 proprietorship, limited liability company, or corporation, without first serving on
14 counsel for the Commission a written statement disclosing the following: (1) the
15 name of the business entity; (2) the address and telephone number of the business
16 entity; (3) the names of the business entity's officers, directors, principals, managers
17 and employees; and (4) a detailed description of the business entity's intended
18 activities.

19 B. Individual Defendant shall notify the Commission at least seven (7)
20 days prior to affiliating with, becoming employed by, or performing any work for
21 any business that is not a named Defendant in this action. Each notice shall include
22 the Defendant's new business address and a statement of the nature of the business or
23 employment and the nature of his duties and responsibilities in connection with that
24 business or employment.

25 **VIII.**

26 **FINANCIAL INSTITUTIONS**

27 **IT IS FURTHER ORDERED** that any financial or brokerage institution, any
28 business entity, or any other person having possession, custody, or control of any

1 records of any of the Defendants, or of any account, safe deposit box, or other asset
2 titled in the name of any of the Defendants, either individually or jointly or held for
3 the benefit of any of the Defendants, or which has maintained any such account, safe
4 deposit box, or other asset at any time since March 1, 2006, who is served with a
5 copy of this Order, or who otherwise has actual knowledge of this Order, shall:

6 A. Hold and retain within its control and prohibit the transfer,
7 encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale, or other
8 disposal of any such account or other asset, except for transfers or withdrawals
9 authorized in writing by counsel for Plaintiff, or by the Permanent Receiver (with
10 respect to assets of any of the Receivership Defendants), or by further order of this
11 Court;

12 B. Deny access to any safe deposit box titled individually or jointly in the
13 name of, or otherwise subject to access by, any of the Defendants;

14 C. Provide to Plaintiff and to the Permanent Receiver, within three (3)
15 business days of notice of this Order, if not already provided pursuant to the TRO, a
16 sworn statement setting forth:

- 17 1. The identification of each account or asset;
- 18 2. The balance of each account or a description of the nature and
19 value of each asset as of the close of business on the day
20 notification of this Order is received, and, if the account or asset
21 has been closed or moved, the balance or value removed and the
22 person or entity to whom it was transferred; and
- 23 3. The identification of any safe deposit box titled in the name of or
24 subject to access by any of the Defendants.

25 D. Upon request by counsel for Plaintiff (or by the Permanent Receiver,
26 with respect to assets held for any of the Receivership Defendants), promptly provide
27 Plaintiff or the Permanent Receiver with copies of all records or other documentation
28 pertaining to such account or asset, including but not limited to originals or copies of

1 account applications, account statements, signature cards, checks, drafts, deposit
2 tickets, transfers to and from the accounts, all other debit and credit instruments or
3 slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

4 E. At the direction of Plaintiff (or the Permanent Receiver, with respect to
5 assets held for any of the Receivership Defendants), and without further order of this
6 Court, convert any stocks, bonds, options, mutual funds, or other securities to their
7 cash equivalents.

8 **IX.**

9 **REPATRIATION OF ASSETS**

10 **IT IS FURTHER ORDERED** that within five business days following
11 service of this Order, if not already done pursuant to the TRO, each of the
12 Defendants shall:

13 A. Repatriate to the United States all funds, documents, or assets in foreign
14 countries held either: (1) by them; (2) for their benefit; or (3) under their direct or
15 indirect control, jointly or singly;

16 B. The same business day as any repatriation under paragraph A above,

17 1. notify Plaintiff and the Permanent Receiver of the name and
18 location of the financial institution or other entity that is the
19 recipient of such funds, documents, or assets; and

20 2. serve this Order on any such financial institution or other entity;

21 C. Provide Plaintiff and the Permanent Receiver with a full accounting of
22 all funds, documents, and assets outside of the territory of the United States held
23 either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control,
24 jointly or singly; and

25 D. Hold and retain all repatriated funds, documents, and assets and prevent
26 any transfer, disposition, or dissipation whatsoever of any such assets or funds.

1 X.

2 ACCESS TO DEFENDANTS' RECORDS

3 IT IS FURTHER ORDERED that:

4 A. The Permanent Receiver shall allow the Commission's representatives,
5 the representatives of the Defendants, and the Individual Defendant reasonable
6 access to the business premises of the Receivership Defendants. The purpose of this
7 access shall be to inspect and copy any and all books, records, accounts, and other
8 property owned by or in the possession of the Receivership Defendants. The
9 Permanent Receiver shall have the discretion to determine the time and manner of
10 this access; and

11 B. If, at the time of service of this Order, any records or property relating
12 to Defendants' business or assets are located in the personal residence of the
13 Individual Defendant or in any other non-business location in his personal control,
14 then he shall, within seventy-two (72) hours of service of this Order, produce to
15 Plaintiff, at a location designated by Plaintiff, the following:

16 1. All contracts, accounting data, written or electronic
17 correspondence, advertisements, computer tapes, discs, or other computerized or
18 electronic records, books, written or printed records, handwritten notes, telephone
19 logs, telephone scripts, telephone bills, receipt books, ledgers, membership records
20 and lists, refund records, receipts, ledgers, bank records (including personal and
21 business monthly statements, canceled checks, records of wire transfers, and check
22 registers), appointment books, copies of federal, state, and local business or personal
23 income or property tax returns, 1099 forms, title records, and other documents or
24 records of any kind that relate to Defendants' business and assets; and

25 2. All computers and data in whatever form, used by Defendants, in
26 whole or in part, relating to Defendants' business and assets.

1 **XI.**

2 **APPOINTMENT OF PERMANENT RECEIVER**

3 **IT IS FURTHER ORDERED** that Thomas W. McNamara is appointed
4 Permanent Receiver for Defendants Elite Business Solutions, Inc., also d/b/a
5 “EasyLife Healthcare,” “Elite Healthcare” and “Republic Healthcare”; *[list all*
6 *additional related entities that Receiver has placed under receivership, if any]*, with
7 the full power of an equity receiver. The Permanent Receiver shall be the agent of
8 this Court and solely the agent of this Court in acting as Receiver under this Order.
9 The Permanent Receiver shall be accountable directly to this Court. The Permanent
10 Receiver shall comply with all Local Rules of this Court governing receivers.

11 **XII.**

12 **RECEIVERSHIP DUTIES**

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

15 A. Assume full control of the Receivership Defendants by removing, as the
16 Permanent Receiver deems necessary or advisable, any manager, independent
17 contractor, employee, or agent of the Receivership Defendants, including the
18 Individual Defendant, from control of, management of, or participation in, the affairs
19 of the Receivership Defendants;

20 B. Take exclusive custody, control and possession of all assets and
21 documents of, or in the possession, custody, or under the control of, the Receivership
22 Defendants, wherever situated. The Permanent Receiver shall have full power to
23 divert mail and to sue for, collect, receive, take in possession, hold, and manage all
24 assets and documents of the Receivership Defendants and other persons or entities
25 whose interests are now held by or under the direction, possession, custody, or
26 control of the Receivership Defendants;

27 C. Take all steps necessary to secure all premises owned, rented, leased, or
28 otherwise controlled by the Receivership Defendants, including but not limited to all

1 such premises located at:

2 3220 S. Fair Lane, Suite 12, Tempe, AZ 85282

3 17595 Harvard Ave., Suite C2450, Irvine, CA 92614

4 23287 S. Pointe Drive #100 and 130, Laguna Hills, CA

5 Such steps may include, but are not limited to, the following, as the Permanent
6 Receiver deems necessary or advisable: (1) serving this Order; (2) completing a
7 written inventory of all receivership assets; (3) obtaining pertinent information from
8 all employees and other agents of the Receivership Defendants, including, but not
9 limited to, the name, home address, social security number, job description, method
10 of compensation, and all accrued and unpaid commissions and compensation of each
11 such employee or agent; (4) photographing and video taping all portions of the
12 location; (5) securing the location by changing the locks and disconnecting any
13 computer modems or other means of access to the computer or other records
14 maintained at that location; or (6) requiring any persons present on the premises at
15 the time this Order is served to leave the premises, to provide the Permanent
16 Receiver with proof of identification, or to demonstrate to the satisfaction of the
17 Permanent Receiver that such persons are not removing from the premises
18 documents or assets of the Receivership Defendants. Law enforcement officers may
19 assist the Permanent Receiver in implementing these provisions to keep the peace
20 and maintain security;

21 D. Continue to conduct the business, or cease operation of the business, of
22 the Receivership Defendants in such manner, to such extent, and for such duration as
23 the Permanent Receiver may in good faith deem to be necessary or appropriate to
24 operate the businesses profitably and lawfully.

25 E. Conserve, hold, and manage all receivership assets, and perform all acts
26 necessary or advisable to preserve the value of those assets, in order to prevent any
27 irreparable loss, damage, or injury to consumers or to creditors of the Receivership
28 Defendants, including, but not limited to, obtaining an accounting of the assets and

1 preventing transfer, withdrawal, or misapplication of assets;

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

3 G. Prevent the inequitable distribution of assets and to determine, adjust,
4 and protect the interests of consumers and creditors who have transacted business
5 with the Receivership Defendants;

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

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

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

21 K. Determine and implement the manner in which the Receivership
22 Defendants will comply with, and prevent violations of, this Order and all other
23 applicable laws;

24 L. Institute, compromise, adjust, appear in, intervene in, or become party to
25 such actions or proceedings in state, federal or foreign courts that the Permanent
26 Receiver deems necessary and advisable to preserve or recover the assets of the
27 Receivership Defendants or that the Permanent Receiver deems necessary and
28 advisable to carry out the Permanent Receiver's mandate under this Order;

1 M. Defend, compromise, adjust, or otherwise dispose of any or all actions
2 or proceedings instituted in the past or in the future against the Permanent Receiver
3 in his role as Permanent Receiver, or against the Receivership Defendants that the
4 Permanent Receiver deems necessary and advisable to preserve the assets of the
5 Receivership Defendants or that the Permanent Receiver deems necessary and
6 advisable to carry out the Permanent Receiver's mandate under this Order;

7 N. Issue subpoenas to obtain documents and records pertaining to the
8 receivership, and conduct discovery in this action on behalf of the receivership
9 estate;

10 O. Open one or more bank accounts as designated depositories for funds of
11 the Receivership Defendants. The Permanent Receiver shall deposit all funds of the
12 Receivership Defendants in such a designated account and shall make all payments
13 and disbursements from the receivership estate from such an account; and

14 P. Maintain accurate records of all receipts and expenditures that he makes
15 as Permanent Receiver.

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

18 **XIII.**

19 **COOPERATION WITH THE PERMANENT RECEIVER**

20 **IT IS FURTHER ORDERED** that Defendants, and their agents, servants,
21 employees, and attorneys, and all persons or entities directly or indirectly under the
22 control of any of them, and all other persons or entities in active concert or
23 participation with any of them who receive actual notice of this Order by personal
24 service or otherwise, and each such person, shall fully cooperate with and assist the
25 Permanent Receiver. Such cooperation and assistance shall include, but not be
26 limited to, providing any information to the Permanent Receiver that the Permanent
27 Receiver deems necessary to exercising the authority and discharging the
28 responsibilities of the Permanent Receiver under this Order; providing any password

1 required to access any computer or electronic files in any medium; or advising all
2 persons who owe money to the Receivership Defendants that all debts should be paid
3 directly to the Permanent Receiver. Defendants are hereby restrained and enjoined
4 from directly or indirectly:

5 A. Transacting any of the business of the Receivership Defendants, or
6 transacting business under the name Health Care One, Americans4 Healthcare,
7 Citizens4Healthcare, American Eagle Healthcare, EasyLife Healthcare, Elite
8 Healthcare, Global Healthcare, and Republic Healthcare, or any substantially similar
9 name;

10 B. Destroying, secreting, defacing, transferring, or otherwise altering or
11 disposing of any documents of the Receivership Defendants, including, but not
12 limited to, books, records, accounts, or any other papers of any kind or nature;

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

17 D. Excusing debts owed to the Receivership Defendants;

18 E. Failing to notify the Permanent Receiver of any asset, including
19 accounts, of any Receivership Defendant held in any name other than the name of
20 any Receivership Defendant, or by any person or entity other than the Receivership
21 Defendants, or failing to provide any assistance or information requested by the
22 Permanent Receiver in connection with obtaining possession, custody, or control of
23 such assets; or

24 F. Doing any act or refraining from any act whatsoever to interfere with
25 the Permanent Receiver's taking custody, control, possession, or managing of the
26 assets or documents subject to this receivership; or to harass or interfere with the
27 Permanent Receiver in any way; or to interfere in any manner with the exclusive
28 jurisdiction of this Court over the assets or documents of the Receivership

1 Defendants; or to refuse to cooperate with the Permanent Receiver or the Permanent
2 Receiver's duly authorized agents in the exercise of their duties or authority under
3 any Order of this Court.

4 **XIV.**

5 **DELIVERY OF RECEIVERSHIP PROPERTY**

6 **IT IS FURTHER ORDERED** that:

7 A. Immediately upon service of this Order upon them, or within a period
8 permitted by the Permanent Receiver, Defendants and all other persons in
9 possession, custody, and control of assets or documents of the Receivership
10 Defendants shall transfer or deliver possession, custody, and control of the following
11 to the Permanent Receiver:

- 12 1. All assets of the Receivership Defendants;
- 13 2. All documents of the Receivership Defendants, including, but not
14 limited to, books and records of accounts, all financial and
15 accounting records, balance sheets, income statements, bank
16 records (including monthly statements, canceled checks, records
17 of wire transfers, and check registers), client lists, title documents
18 and other papers;
- 19 3. All assets belonging to members of the public now held by the
20 Receivership Defendants; and
- 21 4. All keys and codes necessary to gain or to secure access to any
22 assets or documents of the Receivership Defendants, including,
23 but not limited to, access to their business premises, means of
24 communication, accounts, computer systems, or other property.

25 B. In the event any person or entity fails to deliver or transfer any asset or
26 otherwise fails to comply with any provision of this Section, the Permanent Receiver
27 may file, on an *ex parte* basis, an Affidavit of Non-Compliance regarding the failure.
28 Upon filing of the affidavit, the Court may authorize, without additional process or

1 demand, Writs of Possession or Sequestration or other equitable writs requested by
2 the Permanent Receiver. The writs shall authorize and direct the United States
3 Marshal or any sheriff or deputy sheriff of any county to seize the asset, document,
4 or other thing and to deliver it to the Permanent Receiver.

5 **XV.**

6 **BANKRUPTCY PETITIONS**

7 **IT IS FURTHER ORDERED** that, in light of the asset freeze and
8 appointment of the Permanent Receiver, Defendants are hereby prohibited from
9 filing, or causing to be filed, on behalf of any of the Receivership Defendants, a
10 petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*,
11 without prior permission from this Court.

12 **XVI.**

13 **TRANSFER OF FUNDS TO THE PERMANENT RECEIVER**

14 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order, all
15 banks, broker-dealers, savings and loans, escrow agents, title companies, commodity
16 trading companies, or other financial institutions shall cooperate with all reasonable
17 requests of the Permanent Receiver relating to implementation of this Order,
18 including transferring funds at his direction and producing records related to the
19 assets of the Receivership Defendants.

20 **XVII.**

21 **STAY OF ACTIONS**

22 **IT IS FURTHER ORDERED** that:

23 A. Except by leave of this Court, during pendency of the receivership
24 ordered herein, Defendants and all other persons and entities (except for Plaintiff) are
25 hereby stayed from taking any action to establish or enforce any claim, right, or
26 interest for, against, on behalf of, in, or in the name of: a) the Corporate Defendant,
27 or b) any of their assets, or c) the Permanent Receiver or the Permanent Receiver's
28 duly authorized agents acting in their capacities as such, including, but not limited to,

1 the following actions:

2 1. Commencing, prosecuting, continuing, entering, or enforcing any
3 suit or proceeding, except that such actions may be filed to toll any applicable statute
4 of limitations;

5 2. Accelerating the due date of any obligation or claimed obligation;
6 filing or enforcing any lien; taking or attempting to take possession, custody, or
7 control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in
8 any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or
9 otherwise;

10 3. Executing, issuing, serving, or causing the execution, issuance or
11 service of, any legal process, including, but not limited to, attachments,
12 garnishments, subpoenas, writs of replevin, writs of execution, or any other form of
13 process whether specified in this Order or not; or

14 4. Doing any act or thing whatsoever to interfere with the Permanent
15 Receiver taking custody, control, possession, or management of the assets or
16 documents subject to this receivership, or to harass or interfere with the Permanent
17 Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of
18 this Court over the assets or documents of the Receivership Defendants.

19 B. This paragraph does not stay:

20 1. The commencement or continuation of a criminal action or
21 proceeding;

22 2. The commencement or continuation of an action or proceeding by
23 a governmental unit to enforce such governmental unit's police or regulatory power;

24 3. The enforcement of a judgment, other than a money judgment,
25 obtained in an action or proceeding by a governmental unit to enforce such
26 governmental unit's police or regulatory power; or

27 4. The issuance to a Receivership Defendants of a notice of tax
28 deficiency.

1 C. Except as otherwise provided in this Order, all persons and entities in
2 need of documentation from the Permanent Receiver shall in all instances first
3 attempt to secure such information by submitting a formal written request to the
4 Permanent Receiver, and, if such request has not been responded to within seventy-
5 two (72) hours of receipt by the Permanent Receiver, any such person or entity may
6 thereafter seek an Order of this Court with regard to the relief requested.

7 **XVIII.**

8 **COMPENSATION OF PERMANENT RECEIVER**

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

20 **XIX.**

21 **RECEIVER'S BOND**

22 **IT IS FURTHER ORDERED** that the Permanent Receiver shall have on file
23 with the Clerk of this Court a bond in the sum of \$50,000, with sureties to be
24 approved by the Court, conditioned that the Permanent Receiver will well and truly
25 perform the duties of the office and abide by and perform all acts the Court directs.
26
27
28

1 **XX.**

2 **DISTRIBUTION OF ORDER**

3 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a
4 copy of this Order to the Corporate Defendant's affiliates, franchises, subsidiaries,
5 divisions, successors, assigns, directors, officers, managing agents, employees,
6 representatives, and independent contractors and shall, within three (3) business days
7 from the date of service of this Order, serve on Plaintiff affidavits identifying the
8 names, titles, addresses, and telephone numbers of the persons and entities whom
9 they have served pursuant to this provision. The Permanent Receiver has no
10 obligation under this provision.

11 **XXI.**

12 **CREDIT REPORTS**

13 **IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports
14 concerning any of the Defendants pursuant to Section 604(a)(1) of the Fair Credit
15 Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit
16 reporting agency from which such reports are requested shall provide them to
17 Plaintiff.

18 **XXII.**

19 **LIMITED EXPEDITED DISCOVERY**

20 **IT IS FURTHER ORDERED** that the Commission is granted leave at any
21 time after service of this Order to:

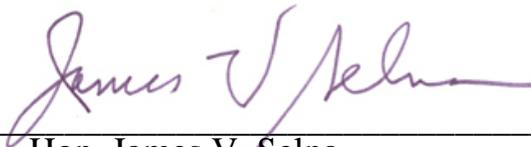
22 A. Take the deposition of any person or entity, without limitation, for the
23 purpose of:

- 24 1. discovering the nature, location, status, and extent of assets of any
25 of the Defendants, including Receivership Defendants, or of their
26 affiliates or of their subsidiaries,
27 2. discovering the nature, location, status and extent of documents
28 reflecting the business transactions of any of the Defendants;

1 entity or person that may have possession, custody, or control of any documents or
2 assets of any Defendant, or that may be subject to any provision of this Order.

3
4 **SO ORDERED:**

5 Dated: August 23, 2010



Hon. James V. Selna
United States District Judge

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28