

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-62000-CIV-ZLOCH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TIMESHARE MEGA MEDIA AND
MARKETING GROUP, INC., a Florida
corporation, also d/b/a Timeshare Market
Pro, Inc., et al.,

Defendants.

**PRELIMINARY INJUNCTION WITH ASSET FREEZE AS TO DEFENDANTS JOSEPH
CRAPPELLA AND PATRICIA WALKER**

The Court having considered all pleadings, memoranda, declarations, and other exhibits filed herein, and being fully advised in the premises, it is now **ORDERED, ADJUDGED, AND DECREED** as follows:

1. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the parties.
2. Venue, process, and service of process are proper.
3. There is good cause to believe that Defendants Joseph Crapella a/k/a Joseph John Philbin and Patricia Walker have engaged in, and are likely to engage in the future in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "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 Joseph Crapella a/k/a Joseph John Philbin and Patricia Walker of their assets or corporate records unless said Defendants are immediately restrained and enjoined by Order of this Court.

5. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b), Fed. R. Civ. P. 65(b).

6. Weighing the equities and considering the Commission's likelihood of ultimate success, a Preliminary Injunction is in the public interest.

7. 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 Preliminary Injunction ("Order"), the following definitions shall apply:

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or

other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **"Assisting Others"** includes, but is not limited to: (a) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (c) providing names of, or assisting in the generation of, potential customers; (d) performing or providing marketing or billing services of any kind; or (e) acting as an officer or director of a business entity.

3. **"Individual Defendants"** means Joseph Crapella a/k/a Joseph John Philbin; Pasquale Pappalardo; Lisa Tumminia Pappalardo; Pasqualino Agovino; Louis Tobias Duany; and Patricia A. Walker, and by whatever other names they may be known.

4. **"Corporate Defendants"** or **"Receivership Defendants"** means Timeshare Mega Media and Marketing Group, Inc., also d/b/a Timeshare Market Pro, Inc.; Timeshare Market Pro, Inc.; and Tapia Consulting, Inc., and their successors and assigns, as well as any subsidiaries, and any fictitious business entities or business names created or used by these entities, or any of them.

5. **"Defendants"** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

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

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

8. **"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. **"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 or a charitable contribution by use of one or more telephones.

I.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE FTC ACT

IT IS THEREFORE ORDERED that Defendants Joseph Crapella a/k/a Joseph John Philbin and Patricia Walker, and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the Telemarketing, advertising, marketing, promotion, offering for sale, or sale of any product or service, including, but not limited to, timeshare resale services, are hereby restrained and enjoined from misrepresenting, or Assisting Others in misrepresenting, directly or indirectly, expressly or by implication, any material fact, including, but not limited to, that:

A. Defendants have a buyer for a consumer's timeshare unit who will pay a specified price; and

B. Defendants will refund their fee to a consumer at the closing of a sale of the consumer's timeshare unit.

II.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE TELEMARKETING SALES RULE

IT IS FURTHER ORDERED that Defendants Joseph Crapella a/k/a

Joseph John Philbin and Patricia Walker, and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the Telemarketing, advertising, marketing, promotion, offering for sale, or sale of any product or service, including, but not limited to, timeshare resale services, are hereby restrained and enjoined from violating, or Assisting Others in violating, any provision of the TSR, 16 C.F.R. Part 310, including, but not limited to:

A. Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R. § 310.2(a)(2)(iv), by misrepresenting, directly or by implication, any material aspect of the nature or terms of Defendants' refund, cancellation, exchange, or repurchase policies, including, but not limited to, the misrepresentation that Defendants will refund their fee to a consumer at the closing of a sale of the consumer's timeshare unit; and

B. Section 310.3(a)(4) of the TSR, 16 C.F.R. § 310.3(a)(4), by making any false or misleading statement, directly or by implication, to induce any person to pay for goods or services, including, but not limited to, the misrepresentation that Defendants have a buyer for a consumer's timeshare unit who will

pay a specified price.

III.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants Joseph Crapella a/k/a Joseph John Philbin and Patricia Walker, and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other Assets, or any interest therein, wherever located, including outside the territorial United States, that are:

1. Owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant;

2. In the actual or constructive possession of any Defendant; or

3. In the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any Assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other Financial Institution or depository of any kind, either within or outside the territorial United States;

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

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

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

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

Notwithstanding the asset freeze provisions of Section III.A-E above, and subject to prior written agreement with the Commission, Individual Defendants, may, upon compliance with Section V (Financial Statements), *infra*, pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses.

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

IV.

DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any Financial Institution, business entity, or Person maintaining or having custody or control of any account or other Asset of Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker, or any corporation, partnership, or other entity directly or indirectly owned, managed,

or controlled by, or under common control with Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the Assets, funds, Documents, or other property held by, or under its control:

1. On behalf of, or for the benefit of, Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker, or any other party subject to Section III above;

2. In any account maintained in the name of, or for the benefit of, or subject to withdrawal by, Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker or other party subject to Section III above; and

3. That are subject to access or use by, or under the signatory power of, Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker or other party subject to Section III above.

B. Deny Defendants Joseph Crapella a/k/a Joseph John Philbin and Patricia Walker access to any safe deposit boxes or storage facilities that are either:

1. Titled in the name, individually or jointly, of any

Defendant or other party subject to Section III above; or

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

C. Unless previously submitted in full compliance with the TRO, provide the Commission, within five (5) days of the date of service of this Order, a sworn statement setting forth:

1. The identification number of each account or Asset titled in the name, individually or jointly, of Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker, or held on behalf of, or for the benefit of, Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker or other party subject to Section III above, including all trust accounts managed on behalf of Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker, or subject to either Defendant's control;

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

3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker, or is otherwise subject to access or control by any Defendant or other party subject to Section III above, whether in whole or in part; and

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

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

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

V.

FINANCIAL STATEMENTS

IT IS FURTHER ORDERED that, unless previously submitted in full compliance with the TRO, Defendant Joseph Crapella a/k/a

Joseph John Philbin and Defendant Patricia Walker shall serve upon counsel for the Commission, no later than three (3) business days after entry of this Order, a completed financial statement accurate as of the date of entry of this Order and signed under penalty of perjury, on the forms served on Defendants with the TRO.

The financial statements shall include Assets held outside the territory of the United States, shall be accurate as of the date of the entry of this Order, and shall be verified under oath. Defendants shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements.

VI.

MAINTAIN RECORDS AND REPORT NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Failing to create and maintain books, records, accounts, bank statements, current accountants' reports, general ledgers,

general journals, cash 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 the Defendants' Assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any Documents, including electronically-stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing 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.

VII.

POSTING NOTICE OF LAWSUIT ON WEB SITES

IT IS FURTHER ORDERED that, immediately upon entry of this Order, Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker, and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, and any other person or entity served with a copy of this Order, shall immediately take whatever action is necessary to ensure that any Web site used by any Defendant for the advertising, marketing, promotion, offering for sale, or sale of timeshare resale services, including, but not limited to, the Web site located at www.timesharemediagroup.com, shall prominently display the following statement:

The Federal Trade Commission ("FTC") has filed a lawsuit against Timeshare Mega Media and Marketing Group, Inc., and others, alleging that it has engaged in deceptive practices relating to the telemarketing, advertising, marketing, promotion, offering for sale, or sale of timeshare resale services. The United States District Court for the Southern District of Florida has issued a preliminary injunction prohibiting the alleged practices. You may obtain additional information directly from the FTC at www.ftc.gov.

Each website carrying this message shall also provide a hypertext link to the FTC's home page at www.ftc.gov, or another home page

designated by counsel for the Commission.

VIII.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any Person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint; and

B. Benefitting from or using the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any Person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint.

Provided, however, that Defendants may disclose such financial or identifying personal information to a law enforcement agency or

as required by any law, regulation, or court order.

IX.

COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that:

A. Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, shall fully cooperate with and assist the Receiver David R. Chase, Esq., and David R. Chase, P.A. This cooperation and assistance shall include, but not be limited to:

1. Providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under the Preliminary Injunction with Asset Freeze as to Corporate Defendants Timeshare Mega Media and Marketing Group, Inc., also d/b/a Timeshare Market Pro, Inc.; Timeshare Market Pro, Inc.; Tapia Consulting, Inc., and Defendant Louis Tobias Duany, entered by this Court on October 29, 2010 (DE 18);

2. Providing any password required to access any computer, electronic file, or telephonic data in any medium; or

3. Advising all Persons who owe money to the

Receivership Defendants that all debts should be paid directly to the Receiver.

B. Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from directly or indirectly:

1. Transacting any of the business of the Receivership Defendants;

2. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any Documents of the Receivership Defendants, including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations, electronically-stored records, or any other records of any kind or nature;

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

4. Excusing debts owed to the Receivership

Defendants;

5. Failing to notify the Receiver of any Asset, including accounts, of the Receivership Defendants held in any name other than the name of the Receivership Defendants, or by any person or entity other than the Receivership Defendants, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody, or control of such Assets;

6. Doing any act or refraining from any act whatsoever to interfere with the Receiver's taking custody, control, possession, or managing of the Assets or Documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Defendants; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any Order of this Court; or

7. Filing, or causing to be filed, any petition on behalf of any of the Receivership Defendants for relief under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*, without prior permission from this Court.

C. Immediately upon service of this Order upon them, or within such period as may be permitted by the Receiver, Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia

Walker or any other person or entity shall transfer or deliver possession, custody, and control of the following to the Receiver:

1. All Assets of the Receivership Defendants, including Assets subject to repatriation pursuant to Section X, *infra*;

2. All Documents of the Receivership Defendants, including, but not limited to, books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers;

3. All Assets belonging to members of the public now held by the Receivership Defendants; and

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

D. In the event any person or entity fails to deliver or transfer any receivership Asset or Document or otherwise fails to comply with any provision of this Section, the Receiver may file *ex parte* an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable writs requested by the Receiver. The writs

shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the Asset, Document, or other thing and to deliver it to the Receiver.

X.

REPATRIATION OF ASSETS AND DOCUMENTS LOCATED IN FOREIGN COUNTRIES

IT IS FURTHER ORDERED that Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker shall:

A. Unless previously completed in full compliance with the TRO entered in this case on October 20, 2010, within three (3) business days following entry 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 Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker's direct or indirect control, jointly, severally, or individually;

B. Unless previously completed in full compliance with the TRO entered in this case on October 20, 2010, within three (3) business days following entry of this Order, provide Plaintiff with a full accounting of all Documents and Assets that are located outside of the territory of the United States of America or that have been transferred to the territory of the United States of America pursuant to Subsection A above and are held by or for any

Defendant or are under Defendant Joseph Crapella a/k/a Joseph John Philbin or Defendant Patricia Walker'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. Unless previously completed in full compliance with the TRO entered in this case on October 20, 2010, within three (3) business days following entry of this Order, provide Plaintiff access to Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker's records and Documents held by Financial Institutions or other entities outside the territorial United States, by signing and delivering to Plaintiff's counsel the Consent to Release of Financial Information attached to the TRO.

XI.

INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Assets, or in the hindrance of the repatriation required by

the preceding Section XI of this Order, including, but not limited to:

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

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

XII.

EXPEDITED DISCOVERY

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

A. Take the deposition of any Person, 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, whether or not a party, relating to the nature, status, and extent of the Assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of Documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action.

Three (3) days notice shall be deemed sufficient for any such deposition, five (5) days notice shall be deemed sufficient for the production of any such Documents, and twenty-four (24) hours notice shall be deemed sufficient for the production of any such Documents that are maintained or stored only as electronic data. The provisions of this Section shall apply both to parties to this case and to non-parties. The limitations and conditions set forth in Federal Rules of Civil Procedure 30(a)(2)(A)(ii) and 31(a)(2)(A)(ii) regarding subsequent depositions of an individual

shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward any limit on the number of depositions under the Federal Rules of Civil Procedure or the Local Rules of Civil Procedure for the United States District Court for the Southern 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 Section, shall be sufficient if made through the means described in Section XIV of this Order.

XIII.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker 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 or participation with them. Within five (5) calendar days following entry of this Order, each Defendant shall file with this Court and serve on Plaintiff, an affidavit identifying the names, titles, addresses, and telephone numbers of the Persons that Defendants have served with a copy of this Order in compliance with this provision.

XIV.

SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order may be distributed by U.S. First Class Mail, overnight delivery, facsimile, electronic mail, or personally, by agents or employees of Plaintiff, by agents or employees of 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 effect service upon the entire Financial Institution or entity.

XV.

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 Defendant Joseph Crapella a/k/a Joseph John Philbin and Defendant Patricia Walker to Plaintiff.

XVI.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that for purposes of this Order, all

correspondence and pleadings to the Commission shall be addressed to:

William J. Hodor
Elizabeth C. Scott
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5634 (telephone)
(312) 960-5600 (facsimile)
whodor@ftc.gov (email, Hodor)
escott@ftc.gov (email, Scott)

XVII.

JURISDICTION

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

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 22nd day of November, 2010, at 2:27 p.m.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel of Record

Joseph Crapella, PRO SE
3550 Galt Ocean Drive, Apt 402
Fort Lauderdale, FL 33308

Patricia A. Walker, PRO SE
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