

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**Federal Trade Commission,**  
  
Plaintiff,  
v.  
**First Consumers, LLC, et al.,**  
  
Defendants.

Civ. Action No.: 14-1608

**[PROPOSED] STIPULATED PRELIMINARY INJUNCTION  
AGAINST DEFENDANT CHARLES W. BORIE**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed a Complaint for Permanent Injunction and Other Equitable Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and an *Ex Parte* Motion for a Temporary Restraining Order and other relief pursuant to Rule 65 of the Federal Rules of Civil Procedure ("Motion"). This Court, having considered the Complaint and the memoranda and exhibits in support of the Commission's Motion, entered a Temporary Restraining Order on March 19, 2014. The Commission and defendant Charles W. Borie agree to the entry of this Stipulated Preliminary Injunction, which shall remain in effect until this Court's determination of the merits of this action, or until otherwise modified by the Court, and good cause appearing.

THEREFORE, IT IS ORDERED as follows:

I.

FINDINGS

- A. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over defendant Charles W. Borie.
- B. Venue is proper in this District.
- C. The Commission has properly served process on defendant Charles W. Borie.
- D. Good cause exists to believe that defendant Charles W. Borie has engaged in, and are likely to engage in, acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the various provisions of the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, and that the FTC is likely to prevail on the merits of this action.
- E. Good cause exists to believe that immediate and irreparable harm will result from defendant Charles W. Borie's ongoing violations of Section 5(a) of the FTC Act and the TSR unless defendant Charles W. Borie is restrained and enjoined by Order of this Court.
- F. Good cause exists to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers (including monetary restitution, rescission, disgorgement, or refunds) will occur from the sale, transfer, destruction, or other disposition or concealment by defendant Charles W. Borie's assets, documents, records, or other evidence unless defendant Charles W. Borie is restrained and enjoined by Order of this Court.
- G. Good cause exists for freezing the assets of defendant Charles W. Borie and issuing ancillary equitable relief contained herein.
- H. Weighing the equities and considering the Plaintiff's likelihood of ultimate success on the merits, the issuance of this temporary restraining order is in the public interest.

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

## II.

### DEFINITIONS

For purposes of this Stipulated Preliminary Injunction ("Order"), the following definitions shall apply:

A. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real, personal, or intellectual property, including chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares or stock, securities, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), insurance policies, lines of credit, cash, trusts (including asset protection trusts), lists of consumer names and reserve funds or any other accounts associated with any payments processed by, or on behalf of, any Defendant, including such reserve funds held by payment processors, credit card processors, banks, or other financial institution.

B. "Corporate Defendants" means **First Consumers, LLC; Standard American Marketing Inc.; PowerPlay Industries, LLC; 1166519075 Québec Inc. d/b/a Landshark Holdings Inc.; and 1164047236 Québec Inc. d/b/a Madicom Inc.**, as well as any affiliates, subsidiaries, successors, or assigns, and any fictitious business entities or business names created or used by these entities, or any of them.

C. "Defendants" means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

D. "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, digital 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.

E. "Express Verifiable Authorization" means: (1) express written authorization by the customer or donor, which includes the customer's or donor's signature; (2) express oral authorization which is audio-recorded and made available upon request to the customer or donor, and the customer's or donor's bank or other billing entity, and which evidences clearly both the customer's or donor's authorization of payment for the goods or services or charitable contribution that are the subject of the telemarketing transaction and the customer's or donor's receipt of all of the following information: (i) the number of debits, charges, or payments (if more than one); (ii) the date(s) the debit(s), charge(s), or payment(s) will be submitted for payment; (iii) the amount(s) of the debit(s), charge(s), or payment(s); (iv) the customer's or donor's name; (v) The customer's or donor's billing information, identified with sufficient specificity such that the customer or donor understands what account will be used to collect payment for the goods or services or charitable contribution that are the subject of the telemarketing transaction; (vi) a telephone number for customer or donor inquiry that is answered during normal business hours; and (vii) the date of the customer's or donor's oral authorization; or (3) written confirmation of the transaction, identified in a clear and conspicuous manner as such on the outside of the envelope, sent to the customer or donor via first class mail

prior to the submission for payment of the customer's or donor's billing information, and that includes all of the information contained in subsections 2(i) through 2(vii) of this definition and a clear and conspicuous statement of the procedures by which the customer or donor can obtain a refund from the seller or telemarketer or charitable organization in the event the confirmation is inaccurate; provided, however, that this means of authorization shall not be deemed verifiable in instances in which goods or services are offered in a transaction involving a free-to-pay conversion and preacquired account information.

F. "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, payment processor, independent sales organization, insurance company, or precious metal dealer.

G. "Individual Defendants" means Ari Tietolman, Marc Ferry, Charles W. Borle, and Robert Barczai.

H. "Outbound Telephone Call" means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

I. "Plaintiff" or "Commission" or "FTC" means the Federal Trade Commission.

J. "Telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. "Telemarketing" means any plan, program, or campaign conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones, whether or not covered by the Telephone Sales Rule.

L. "Telemarketing Sales Rule" or "TSR" means the Telemarketing Sales Rule set forth in 16 C.F.R. Part 310.

### III.

#### PROHIBITION AGAINST MISREPRESENTATIONS AND VIOLATIONS OF THE TELEMARKETING SALES RULE

IT IS HEREBY ORDERED that defendant Charles W. Borie, and his 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 indirectly, in connection with the telemarketing, advertising, promotion, distribution, offering for sale, or sale of any good or service, are hereby preliminarily restrained and enjoined from:

- A. Misrepresenting, directly or indirectly, expressly or by implication, any material fact including, but not limited to, the following:
1. That Defendants are contacting the consumer from, or on behalf of, or are otherwise affiliated with, the consumer's bank, thrift, credit union; other financial institution, or any government entity;
  2. That consumers have previously authorized a transaction for Defendants' purported products or services;
  3. That Defendants will not treat consumers' disclosure of bank account information to them as authorization to charge the consumers for Defendants' purported products or services; or
  4. That Defendants will not debit money from consumers' bank accounts.

- B. Violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to:
1. Section 310.3(a)(1)(ii), by failing to disclose truthfully in a clear and conspicuous manner, before a customer pays for goods or services, all material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer;
  2. Sections 310.3(a)(2)(i) and 310.3(a)(2)(vii), by misrepresenting, directly or by implication:
    - a. The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer; or
    - b. A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity;
  3. Section 310.3(a)(3), by causing billing information to be submitted for payment, or collecting or attempting to collect payment for goods or services, directly or indirectly, without the customer's express verifiable authorization, except when the method of payment used is a credit card subject to the protections of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, and Regulation Z, 12 C.F.R. § 226, or a debit card subject to the protections of the Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.*, and Regulation E, 12 C.F.R. § 205; or

4. Section 310.4(a)(7), by causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the consumer.

#### IV.

#### PROHIBITION AGAINST UNAUTHORIZED BILLING

IT IS THEREFORE ORDERED that, in connection with the telemarketing, advertising, promotion, distribution, offering for sale, or sale of any good or service, defendant Charles W. Borie, and his agents, servants, employees, or attorneys, and any person or entity in active concert or participation with any of them, who receives actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are hereby preliminarily restrained and enjoined from,

1. Obtaining a consumer's bank account, credit card, or debit card information without the consumer's prior express informed consent;
2. Billing, charging, or causing a consumer to be billed or charged, without the consumer's prior express informed consent; or
3. Failing to clearly and conspicuously disclose before billing, charging, or causing a consumer to be billed or charged, all material terms, conditions, restrictions, or limitations to purchase, receive, or use the goods or services that are the subject of the sales offer.

V.

**PROHIBITION AGAINST COLLECTING PAYMENT**

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, are hereby preliminarily restrained and enjoined from attempting to collect, collecting, selling, or assigning, or otherwise transferring any right to collect payment for any good or service, directly or through any third party.

VI.

**PROHIBITION AGAINST USE OF CONSUMER INFORMATION**

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his agents, servants, employees, 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 indirectly, are hereby preliminarily 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 or debit card number, bank account number, or other financial or identifying personal information of any individual from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint; or
- B. Benefitting from or using the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit or debit card

number, bank account number, or other financial or identifying personal information of any individual from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint;

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

## VII.

### ASSET FREEZE

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his agents, servants, employees, attorneys, and all other persons or entities 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 indirectly, are hereby preliminarily 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 at any bank, savings and loan institution, credit union, credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, mail holding or forwarding company, retirement fund custodian, money market or mutual fund, storage company, trustee, broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or any other financial institution or other third party, either within or outside the territorial United States.
- B. Opening, causing to be opened, or otherwise accessing 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; or
- D. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant or any corporation,

partnership, or other entity directly or indirectly owned, managed, or controlled  
by any Defendant:

Provided, however, the freeze imposed in this Section shall apply to: (1) assets existing at the time of entry of this Order; and (2) any assets any defendant Charles W. Borie acquires following service of this Order only if such after-acquired assets are derived from activity prohibited by this Order.

#### VIII.

##### DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that defendant Charles W. Borie shall immediately provide a copy of this Order to his agents, servants, employees, and attorneys, and each officer, director, employee, independent contractor, or other representative of any entity under defendant Charles W. Borie's direct or indirect control, and shall, within forty-eight (48) hours following service of this Order, provide the Commission with a sworn statement that defendant Charles W. Borie has complied with this provision of the Order. The statement shall include the names and addresses of each such persons who received a copy of the Order.

#### IX.

##### FINANCIAL STATEMENTS AND ACCOUNTING

IT IS FURTHER ORDERED that, within forty-eight (48) hours following service of this Order:

- A. Defendant Charles W. Borie shall prepare and deliver to counsel for the Commission a completed financial statement on the form captioned "Financial

Statement of Individual Defendant," which is attached to this Order as  
**Attachment A;**

- B. For each business entity owned, controlled, or managed by defendant Charles W. Borie, regardless of whether it is a defendant in this case, defendant Charles W. Borie shall also prepare and deliver to counsel for the Commission a completed "Financial Statement of Corporate Defendant," which is attached to this Order as **Attachment B;** and
- D. Defendant Charles W. Borie shall also prepare and deliver to counsel for the Commission:
1. A completed statement, verified under oath:
    - a. specifying the name and address of each financial institution at which defendant Charles W. Borie has accounts or safe deposit boxes. Said statements shall include assets held within the United States as well as assets located outside the territorial jurisdiction of the United States; and
    - b. listing all persons who have received payments, transfers, or assignment of funds, property, or other assets totaling \$1,000 or more in any twelve-month period since January 1, 2009. This list shall specify: (a) the amount(s) transferred or assigned; (b) the name of each transferee or assignee; (c) the date of the assignment or transfer; and (d) the type and amount of consideration, if any, paid to defendant Charles W. Borie; and

2. For each service, product, or program advertised, marketed, promoted, offered for sale, or sold by the Defendants, a detailed accounting, verified under oath, of:
  - a. the total amount of sales for each such service, product, or program (broken down by month and year) from January 1, 2009, through the date of the issuance of this Order;
  - b. the gross revenues obtained from the sale of each such service, product, or program (broken down by month and year) from January 1, 2009, through the date of the issuance of this Order;
  - c. all net profits obtained from the sale of each such service, product, or program (broken down by month and year) from January 1, 2009, through the date of the issuance of this Order; and
  - d. the full names, addresses, emails, and telephone numbers of all purchasers or recipients of each such service, product, or program, and the amount paid by each from January 1, 2009, through the date of the issuance of this Order.

Provided, however, that defendant Charles W. Boric does not have to provide any such information identified by this Section if (1) he has already provided such information pursuant to Section IX of the Temporary Restraining Order; and (2) the information provided has not changed.

X.

**REPATRIATION OF ASSETS AND DOCUMENTS**

IT IS FURTHER ORDERED that defendant Charles W. Borie shall:

- A. Within forty-eight (48) hours following service of this Order, take such steps as are necessary to repatriate to the territory of the United States all documents and assets that are located in a country other than the United States and are held by or for defendant Charles W. Borie, or are under defendant Charles W. Borie's direct or indirect control;
- B. Within forty-eight (48) hours following service 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 that have been transferred to the territory of the United States pursuant to Subsection A above and are held by or for defendant Charles W. Borie or are under defendant Charles W. Borie's direct or indirect control, 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 forty-eight (48) hours following service of this Order, provide Plaintiff access to defendant Charles W. Borie's records and documents held by financial institutions or other persons 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**.

Provided, however, that defendant Charles W. Borie does not have to provide the accounting or signed Consent to Release Financial Records ("Release") identified by this Section if (1) he has already provided such accounting and signed Release pursuant to Section X of the Temporary Restraining Order; and (2) the information provided in the accounting or Release has not changed.

**XI.**

**NONINTERFERENCE WITH REPATRIATION**

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his agents, servants, employees, attorneys, and all other persons or entities 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 indirectly, are hereby preliminarily restrained and enjoined from taking any action, directly or indirectly, which may hinder the repatriation required by Section X of this Order, including:

- A. Transferring any funds held in a foreign account to an account or recipient other than one designated by the Federal Trade Commission;
- B. Dissipating the foreign assets or hindering the repatriation of foreign assets in any way;
- C. Sending any statement, letter, fax, email, or wire transmission, 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 all assets have been fully repatriated pursuant to Section of this Order; and

- D. 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 that defendant Charles W. Borie's assets have been fully repatriated pursuant to Section X of this Order.

## **XII.**

### **PRESERVATION OF RECORDS**

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his agents, servants, employees, attorneys, and all persons or entities directly or indirectly under their control or under common control with them, and all other persons in active concert or participation with them who receive actual notice of this Order, are hereby preliminarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or finances of any of the Defendants, and to the business practices of entities that are directly or indirectly under control of any of the Defendants, or under common control with any of the Defendants. Any third party having such documents in its possession, custody, or control, and which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, is also restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, such documents. This Section specifically applies to all documents displayed on or accessible from any Internet website owned or controlled by Defendants, including but not limited to the

following domain names: trustoneservices.com; myfraudwatch.com; consumersfirst.info; legaleyenetwork.com; and patientassistanceplus.com.

**XIII.**

**ACCESS TO BUSINESS RECORDS**

**IT IS FURTHER ORDERED** that defendant Charles W. Borie shall, within twenty-four (24) hours of service of this Order, produce to the Commission at the Federal Trade Commission, 600 Pennsylvania Avenue NW, Stop M-8102B, Washington DC 20580, via FedEx or other courier service acceptable to the Commission, or at another location acceptable to the Commission, for inventory and copying: (1) all computers, computerized files, storage media (including but not limited to, hard drives, DVDs, CD-ROMs, zip disks, floppy disks, punch cards, magnetic tape, backup tapes, and computer chips) on which information has been saved and all equipment needed to read any such material; (2) all solicitations, advertising, classified listings, telemarketing scripts, and automated or prerecorded messages played for consumers; (3) all correspondence with consumers, including but not limited to requests for payment and billing letters, equipment delivery receipts, cancellation requests, consumer complaints and responses; written contracts, and signed declarations of consumer consent; (4) all recordings of telephone conversations, and all notes or records recounting or relating to telephone conversations; (5) all consumer identification or financial information obtained through or as a result of solicitations, telemarketing, correspondence, or other sources, including but not limited to lead providers and generators, and independent sales organizations; (6) identification and contact information for all employees and independent contractors since January 1, 2009, including but not limited to telemarketing sales personnel; (7) all training materials for employees and independent

contractors; (8) accounting information, including but not limited to profit and loss statements, annual reports, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, or local business or personal income or property tax returns, and 1099 forms since 2008; and (9) other documents or records of any kind that relate to any business practice of Defendants, including but not limited to all documents filed by Defendants or their Representatives with any federal, state, or local government agency or institution in connection with the marketing of goods or services.

Provided, however, that defendant Charles W. Borie does not have to provide any such business records covered by this Section if (1) he has already provided such records pursuant to Section XIII of the Temporary Restraining Order; and (2) the records provided have not changed.

The Commission shall return produced materials pursuant to this Section within seven (7) days of completing said inventory and copying.

#### **XIV.**

##### **DUTIES OF FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES**

IS FURTHER ORDERED that any financial institution, business entity, or other person maintaining or having custody or control of any account, other asset, or documents of defendant Charles W. Borie, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by defendant Charles W. Borie, 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, destruction, 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 Charles W. Borie or any other party subject to Section VII above;
2. in any account maintained in the name of, or for the benefit of, or subject to withdrawal by, defendant Charles W. Borie or other party subject to Section VII above; or
3. that are subject to access or use by, or under the signatory power of, defendant Charles W. Borie or other party subject to Section VII above.

B. Deny defendant Charles W. Borie, unless accompanied by a representative of the Commission, access to any safe deposit boxes or storage facilities that are either:

1. titled in the name, individually or jointly, of defendant Charles W. Borie, or other party subject to Section VII above; or
2. otherwise subject to access by defendant Charles W. Borie or other party subject to Section VII above.

C. Provide the Commission, within three (3) days of the date of service of this Order, a sworn statement setting forth:

1. the identification number of each account or other asset titled in the name of defendant Charles W. Borie, or held on behalf of, or for the benefit of, defendant Charles W. Borie or other party subject to Section VII above, including all trust accounts managed on behalf of defendant Charles W. Borie or subject to defendant Charles W. Borie's control;

2. the balance of each such account, or a description of the nature and value of such asset as of the time this Order is served;
  3. the identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name of any defendant Charles W. Borie, or is otherwise subject to access or control by defendant Charles W. Borie or other party subject to Section VII 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. If not already done in compliance with Section XIV of the Temporary Restraining Order in this matter, allow representatives of Plaintiff immediate access to inspect and copy, or upon Plaintiff's request, within forty-eight (48) hours of said request, provide the Commission with copies of, all records or other documents pertaining to each such account or other 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.

**XV.**

**SERVICE UPON FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile, U.S. first class mail, private courier, overnight delivery, email, other electronic means, or personally, by agents or employees of Plaintiff, by any law enforcement agency, or by private process server, upon any financial institution, other entity, or person that may have possession, custody, or control of any account, other asset, or document identified in Section VII above, or that may be otherwise subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution. For purposes of service upon anyone in possession of documents or assets subject to this Order, actual notice of this Order shall be deemed to have been provided upon service of pages 1 through 28 of this Order.

**XVI.**

**RECORDS MAINTENANCE AND NEW BUSINESS ACTIVITY**

IT IS FURTHER ORDERED that defendant Charles W. Borie, and his 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 indirectly, are hereby preliminarily 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 defendant Charles W. Borie's 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; or
- 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.

#### XVII.

#### NONINTERFERENCE WITH CONSUMER WITNESSES

IT IS FURTHER ORDERED that defendant Charles W. Borie's, and his 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 indirectly, are hereby preliminarily restrained and enjoined from taking any action, directly or indirectly, that may result in the intimidation or noncooperation of consumer witnesses.

#### **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), and 31(a)(2)(A), Plaintiff is granted leave, at any time after entry of this Order to:

- A. Take the deposition of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the assets of defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W. Borie; the nature and location of documents reflecting the business transactions of defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W. Borie; the location of any premises where defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W. Borie, conducts business operations; defendant Charles W. Borie's whereabouts; and/or the applicability of any evidentiary privileges to this action; or
- 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 defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W.

Borie; the nature and location of documents reflecting the business transactions of defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W. Borie; the location of any premises where defendant Charles W. Borie, or any entity under the direct or indirect control of defendant Charles W. Borie, conducts business operations; the defendant Charles W. Borie's whereabouts; and/or the applicability of any evidentiary privileges to this action.

Thirty-six (36) hours notice shall be deemed sufficient for any such deposition, forty-eight (48) hours notice shall be deemed sufficient for the production of any such documents, and twenty-four (24) hours notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data. The provisions of this Section shall apply both to parties to this case and to non-parties. The limitations and conditions set forth in Federal Rules of Civil Procedure 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward any limit on the number of depositions under the Federal Rules of Civil Procedure including those set forth in Federal Rules of Civil Procedure 30(a)(2)(A) and 31(a)(2)(A) or the Local Civil Rules of the United States District Court for the Eastern District of Pennsylvania. For purposes of discovery pursuant to this Section of the Order, service shall be sufficient if made by facsimile or by overnight courier.

**XIX.**

**CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF**

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be sent either via electronic transmission or via FedEx to:

David R. Spiegel  
Boris Yankilovich  
Arturo DeCastro  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
(206) 326-3281 [telephone]  
(202) 326-2558 [facsimile]  
dspiegel@ftc.gov  
byankilovich@ftc.gov  
adecastro@ftc.gov

**XX.**

**CONSUMER REPORTING AGENCIES**

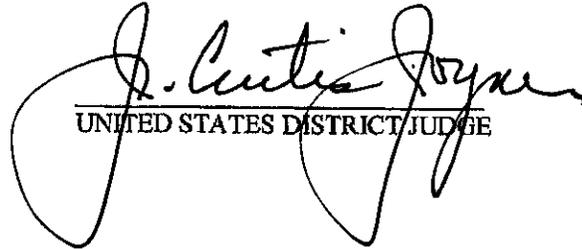
IT IS FURTHER ORDERED that, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b, any consumer reporting agency which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall, upon request of Plaintiff, provide to Plaintiff a consumer or credit report concerning defendant Charles W. Borie.

**XXI.**

**RETENTION OF JURISDICTION**

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

DATED this <sup>th</sup> 27 day of March, 2014, at 1:40 o'clock, ~~AM~~ PM.

  
UNITED STATES DISTRICT JUDGE