

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

Federal Trade Commission,

Plaintiff,

v.

**First Consumers, LLC, a limited liability
company;**

**Standard American Marketing Inc., a
corporation;**

**PowerPlay Industries, LLC, a limited liability
company;**

**1166519075 Québec Inc. d/b/a Landshark
Holdings Inc., a Canadian corporation;**

**1164047236 Québec Inc. d/b/a Madicom Inc.,
a Canadian corporation;**

**Ari Tietolman, individually and as an officer
and director of the corporate defendants;**

**Marc Ferry, individually and as an officer and
director of the corporate defendants;**

**Charles W. Borie, individually and as an
officer and director of the corporate defendants;
and**

**Robert Barczai, individually and as an officer
and director of the corporate defendants;**

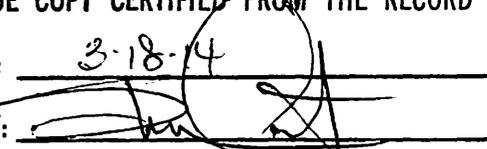
Defendants.

Civ. Action No.:

FILED UNDER SEAL

A TRUE COPY CERTIFIED FROM THE RECORD

DATED: 3-18-14

ATTEST: 

DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

**~~PROPOSED~~ EX PARTE TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), having filed its 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 having filed an *Ex Parte* Motion for a Temporary Restraining Order and other relief pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the Court, having considered the Complaint, Plaintiff’s *Ex Parte* Motion Temporary Restraining Order, and all declarations, exhibits, and the memorandum of points and authorities attached in support, hereby finds that:

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 all Defendants.

B. Venue is proper in this District.

C. Good cause exists to believe that defendants **First Consumers, LLC; Standard American Marketing Inc.; PowerPlay Industries, LLC; 1166519075 Québec Inc. d/b/a Landshark Holdings Inc.; 1164047236 Québec Inc. d/b/a Madicom Inc.; Ari Tietolman; Marc Ferry; Charles W. Borie; and Robert Barczai** have 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.

D. Good cause exists to believe that immediate and irreparable harm will result from Defendants' ongoing violations of Section 5(a) of the FTC Act and the TSR unless Defendants are restrained and enjoined by Order of this Court.

E. 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 Defendants of their assets, documents, records, or other evidence unless Defendants are immediately, without prior notice, restrained and enjoined by Order of this Court.

F. Good cause exists for freezing the assets of all Defendants, issuing ancillary equitable relief contained herein, and relieving Plaintiff of the duty to provide Defendants with prior notice of the Plaintiff's motion.

G. 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.

H. 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 Temporary Restraining Order ("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 (i) through (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. Borie, 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 Defendants, 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 indirectly, in connection with the telemarketing, advertising, promotion, distribution, offering for sale, or sale of any good or service, are hereby temporarily 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 United States 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, Defendants, their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are hereby temporarily 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 Defendants, and their officers, 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 temporarily 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 Defendants, and their officers, 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 temporarily 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 Defendants 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 Defendants, and their officers, 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 temporarily 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.

VIII.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Individual Defendants shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and representative of Defendants, and shall, within forty-eight (48) hours following service of this Order, provide the Commission with a sworn statement that Individual Defendants have complied with this provision of the Order. The statement shall include the names and addresses of each such person or entity 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. Each Individual Defendant 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. Each Corporate Defendant 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**;
- C. For each business entity owned, controlled, or managed by an Individual Defendant, regardless of whether it is a defendant in this case, each Individual Defendant 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. Each Defendant 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 the Defendant 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 the Defendant; 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.

X.

REPATRIATION OF ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that Defendants 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 Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually;
- 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 any Defendant or are under any Defendant's direct or indirect control, jointly, severally, or individually, including the addresses and names of any foreign or domestic financial institution or other entity holding the documents and assets, along with the account numbers and balances;
- C. Hold and retain all such documents and assets and prevent any transfer, disposition, or dissipation whatsoever of any such documents or assets; and
- D. Within forty-eight (48) hours following service of this Order, provide Plaintiff access to Defendants' 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**.

XI.

NONINTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants, and their officers, 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 temporarily 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 all Defendants' assets have been fully repatriated pursuant to Section X of this Order.

XII.

PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendants, and their officers, 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 temporarily 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; legaleynetwork.com; and patientassistanceplus.com.

XIII.

ACCESS TO BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants 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 Federal Express 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 if Defendants provide any business records covered by this Section to any federal or Canadian law enforcement agency (including, but not limited to, the Federal Bureau of Investigation and the Royal Canadian Mounted Police) before receiving service of this Order, Defendants shall produce such records to the Commission within twenty-four (24) hours after the federal or Canadian law enforcement agency returns the records to Defendants.

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 any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, 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, any Defendant 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, any Defendant or other party subject to Section VII above; or
3. that are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section VII above.

B. Deny Defendants, 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 any Defendant, or other party subject to Section VII above; or
2. otherwise subject to access by any Defendant 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, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section VII above, including all trust accounts managed on behalf of any Defendant or subject to any Defendant'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, individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant 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. 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 Defendants, 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 indirectly, are hereby temporarily 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; 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.

ORDER TO SHOW CAUSE

IT IS FURTHER ORDERED that, pursuant to Federal Rule of Civil Procedure 65(b), Defendants shall appear before this Court, Courtroom 17A, 601 Market Street, Philadelphia, PA, on the 27th day of March, 2014, at 1:30 o'clock ~~AM~~/ PM, Eastern Standard Time, to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Telemarketing Sales Rule, 16

C.F.R. Part 310, continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

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 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; 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 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.

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.

MOTION FOR LIVE TESTIMONY; WITNESS IDENTIFICATION

IT IS FURTHER ORDERED that the question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining Defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. An evidentiary hearing on the Plaintiff's request for a preliminary injunction is not necessary unless Defendants demonstrate that they have, and intend to introduce, evidence that raises a genuine issue of material fact. Live testimony shall be heard only on further order of this Court upon motion filed with the Court and served on counsel for the other parties at least five (5) business days prior to

the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or any cross-motion to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties at least three (3) business days prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery, by electronic filing, or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m., Eastern Standard Time, on the appropriate dates provided in this Section.

XX.

**TIMING OF SERVICE OF PLEADINGS, MEMORANDA,
AND OTHER EVIDENCE**

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports, or declarations, and/or legal memoranda no later than four (4) business days prior to the hearing on Plaintiff's request for a preliminary injunction.

Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one (1) business day prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery, by electronic filing, or by facsimile, and

documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m., Eastern Standard Time, on the appropriate dates listed in this Section.

XXI.

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

XXII.

EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on March 28, 2014, at 1:30 ~~PM~~ PM, Eastern Standard Time, unless before such time the Court, for good cause shown, extends the duration of this Order, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XXIII.

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 any Defendant.

XXIV.

AUTHORITY TO SERVE DEFENDANTS IN A FOREIGN COUNTRY BY ROYAL CANADIAN MOUNTED POLICE

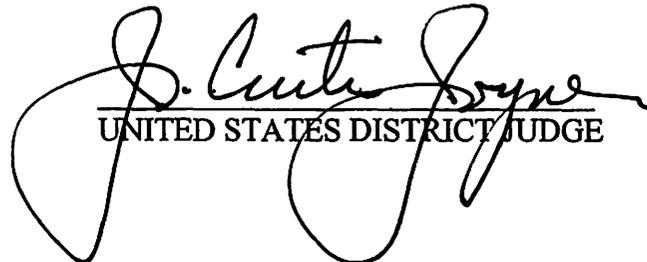
IT IS FURTHER ORDERED that, pursuant to Federal Rule of Civil Procedure 4(f)(3), Plaintiff may serve this Order and all related documents on Defendants by the Royal Canadian Mounted Police or its agents.

XXV.

RETENTION OF JURISDICTION

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

DATED this 18th day of March 2014, at 11:40 o'clock, AM / ~~PM~~


UNITED STATES DISTRICT JUDGE