

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by _____ D.C.

JUN 02 2014

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S. D. of FLA. - MIAMI

Per Local Rule 5.4(d), the matter(s)
shall remain sealed:

1 years; 6/2/15 (specific date);
_____ permanently; _____ (other).

FEDERAL TRADE COMMISSION,

PLAINTIFF,

v.

HISPANIC GLOBAL WAY, CORP;
HISPANIC GLOBAL WAY, LLC; HISPANIC
GLOBAL WAY VENEZ CORP, also d/b/a
TVO; HISPANIC GLOBAL WAY VENEZ I
CORP; GOLD LEAD USA CORPORATION;
SKY ADVANCE CHOICES CORP; SKY
ADVANCE, LLC; FIRST AIRBORNE
SERVICE TRADING CORP, also d/b/a FAST
SOLUTIONS, L'NATURE LAB, MOVIL
ENGLISH F.A.S.T., MOLDING MOTION 5
FIRST AIRBORNE; HISPANIC NETWORK
CONNECTIONS LLC, also d/b/a LO VI EN
TV; FAST SOLUTIONS PLUS CORP;
GRAND TEAM SERVICE CORP; MARIA
ELIZABETH VERA; RAFAEL MARTIN
HERNANDEZ; ROBERTO CARRASCO
MACEDO; AND MARIA GISELLA
CARRASCO,

DEFENDANTS.

Filed Under Seal

Case No. 14-22018-CV

☒ SEALED

☐ NOT SEALED

TEMPORARY
RESTRAINING ORDER

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), having filed its Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), 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, the Commission's *Ex*

Parte Motion for a Temporary Restraining Order, and all declarations, exhibits, and the memorandum in support thereof, 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 **Hispanic Global Way, Corp;** **Hispanic Global Way, LLC;** **Hispanic Global Way Venez Corp. also d/b/a TVO;** **Hispanic Global Way Venez I Corp.;** **Gold Lead USA Corporation;** **Sky Advance, LLC;** **Sky Advance Choices Corp;** **Grand Team Service Corp;** **First Airborne Services Trading Corp,** **also d/b/a Fast Solutions, L'Nature Lab, Movil English F.A.S.T., and Moulding Motion 5 First Airborne;** **Hispanic Network Connections LLC also d/b/a Lo Vi En TV;** **Fast Solutions Plus Corp;** **Maria Elizabeth Vera;** **Rafael Martin Hernandez;** **Roberto Carrasco Macedo;** and **Maria Gisella Carrasco** have engaged in, and are likely to engage in, acts or practices that violate Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, 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 Sections 5(a) and 12 of the FTC Act 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 the Commission of the duty to provide Defendants with prior notice of the Commission's motion.

G. Weighing the equities and considering the Commission'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 institutions.

B. **“Consumer”** means any individual or entity who purchased, purchases, or will purchase a good or service from the Defendants.

C. **“Corporate Defendants”** means **Hispanic Global Way, Corp; Hispanic Global Way, LLC; Hispanic Global Way Venez Corp. also d/b/a TVO; Hispanic Global Way Venez I Corp; Gold Lead USA Corporation; Sky Advance, LLC; Sky Advance Choices Corp; Grand Team Service Corp; First Airborne Services Trading Corp, also d/b/a Fast Solutions, L’Nature Lab, Movil English F.A.S.T., and Moulding Motion 5 First Airborne; Hispanic Network Connections LLC also d/b/a Lo Vi En TV; and Fast Solutions Plus Corp**, as well as any affiliates, subsidiaries, successors, or assigns, and any fictitious business entities or business names created or used by these entities.

D. **“Defendants”** means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

E. **“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 non-identical copy is a separate document within the meaning of the term.

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. **“Foreign Asset”** means any asset located in any country other than the United States including, but not limited to, Peru.

H. **“Individual Defendants”** means **Maria Elizabeth Vera, Rafael Martin Hernandez, Roberto Carrasco Macedo, and Maria Gisella Carrasco.**

I. **“Plaintiff”** or **“Commission”** or **“FTC”** means the Federal Trade Commission.

J. **“Receiver”** and **“Temporary Receiver”** mean the temporary receiver appointed in Section XIV of this Order and any deputy receivers that shall be named by the temporary receiver.

III.

PROHIBITIONS

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. Failing to provide refunds or exchanges, without the charge of any additional fee, when consumers receive from Defendants an incorrect product, a non-working product, an incomplete order, the wrong product size or color, or do not receive the gift that Defendants promised as an inducement for the purchase;

- B. Misrepresenting, directly or indirectly, expressly or by implication, that consumers who purchase a product from Defendants can return the product, even after use, and receive a full refund without any additional expense, including shipping, handling, or other costs; and
- C. Misrepresenting, directly or indirectly, expressly or by implication, that:
 - 1. Moulding Motion 5, or any other product or device, causes rapid and substantial weight loss;
 - 2. Moulding Motion 5, or any other product or device, causes rapid and substantial weight loss regardless of users' diet and exercise habits; or
 - 3. Consumers are likely to obtain the weight loss results reported by Defendants' testimonialists.

IV.

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 within or 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.

V.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that the 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 the 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.

VI.

SERVICE UPON FINANCIAL INSTITUTIONS AND OTHER NON-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 the Commission, 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 IV 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 35 of this Order, exclusive of any Attachments.

VII.

DUTIES OF FINANCIAL INSTITUTIONS AND OTHER NON-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 IV, "Asset Freeze," 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 IV, “Asset Freeze,” 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 IV, “Asset Freeze,” 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 IV, “Asset Freeze,” above; or
 2. otherwise subject to access by any Defendant or other party subject to Section IV, “Asset Freeze,” 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 IV, “Asset Freeze,” 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 IV, "Asset Freeze," 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 the Commission immediate access to inspect and copy, or upon the Commission'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.

VIII.

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, including but not limited to Peru; 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.

IX.

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, including providing full cooperation with the Receiver, to repatriate to the territory of the United States all documents and assets that are located in a

country other than the United States (including but not limited to Peru) 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 the Commission and the Receiver with a full accounting of all documents and assets that are located outside of the territory of the United States (including but not limited to Peru) 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 the Commission access to Defendants' records and documents held by financial institutions or other persons outside the territorial United States, by signing and delivering to the Commission's counsel the Consent to Release of Financial Records attached to this Order as **Attachment C**.

X.

NON-INTERFERENCE 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 IX of this Order, including:

- A. Transferring any funds held in a foreign account to an account or recipient other than one designated by the Commission or the Receiver;
- 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 IX of this Order.

XI.

SURRENDER OF INDIVIDUAL DEFENDANTS' PASSPORTS TO THIS COURT

IT IS FURTHER ORDERED that within forty-eight (48) hours of service of this Order on each Individual Defendant, all passports issued to each Individual Defendant (whether issued by the United States Department of State or any other country or state) shall be surrendered to the Clerk of this Court. The passports shall be retained by the Clerk until such time as each of the Individual Defendants certify, under oath, as part of a motion to release passports, that they have repatriated all foreign assets, including, but not limited to, assets previously transferred to Peru, and this Court grants such a motion.

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.

XIII.

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 the Commission and the Receiver 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.

XIV.

APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED that _____ is appointed Temporary Receiver for Corporate Defendants and any of their affiliates, subsidiaries, divisions, or telephone sales or customer service operations, wherever located, with the full power of an equity receiver. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court.

XV.

RECEIVER'S DUTIES AND AUTHORITIES

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

- A. Assume full control of Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, manager, member, independent contractor,

employee, or agent of any of Corporate Defendants, including any Defendant, from control of, management of, or participation in, the affairs of Corporate Defendants;

- B. Take exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control of, Corporate Defendants, wherever situated.

The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all Assets and Documents of Corporate Defendants and other Persons or entities whose interests are now under the direction, possession, custody, or control of Corporate Defendants. The Receiver shall assume control over Corporate Defendants' income and profits and all sums of money now or hereafter due or owing to Corporate Defendants. Provided, however, that the Receiver shall not attempt to collect any amount from a Consumer if the Receiver believes the Consumer was a victim of the unfair or deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

- C. Take all steps necessary to secure and take exclusive custody of each location from which Corporate Defendants operate their businesses. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable:

(1) serving this Order; (2) completing a written inventory of all Assets of Corporate Defendants; (3) obtaining pertinent information from all employees and other agents of Corporate Defendants, including the name, home address, Social Security Number, job description, company history, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) photographing and videotaping any or all portions of the location; (5) securing the

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

- D. Conserve, hold, and manage all Assets of Corporate Defendants, and perform all acts necessary or advisable to preserve the value of those Assets in order to prevent any irreparable loss, damage, or injury to Consumers or creditors of Corporate Defendants, including obtaining an accounting of the Assets and preventing the unauthorized transfer, withdrawal, or misapplication of Assets;
- E. Enter into and cancel contracts, and purchase insurance as advisable or necessary;
- F. Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of Consumers and creditors who have transacted business with Corporate Defendants;
- G. Manage and administer the business of Corporate Defendants until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or

necessary, which includes, but is not limited to, retaining, hiring, or dismissing any employees, independent contractors, or agents;

- H. Prevent the destruction or erasure of any web page or website registered to and operated, in whole or in part, by Corporate Defendants;
- I. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;
- J. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of Corporate Defendants, such as rental payments;
- K. Suspend business operations of Corporate Defendants if in the judgment of the Receiver such operations cannot be continued legally or profitably;
- L. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal, or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the Assets of Corporate Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including actions challenging fraudulent or voidable transfers;

- M. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against Corporate Defendants, as the Receiver deems necessary and advisable to preserve the Assets of Corporate Defendants or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;
- N. Issue subpoenas to obtain Documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;
- O. Open one or more bank accounts as designated depositories for funds of Corporate Defendants. The Receiver shall deposit all funds of Corporate Defendants in such a designated account and shall make all payments and disbursements from the receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;
- P. Maintain accurate records of all receipts and expenditures incurred as Receiver;
- Q. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency; and
- R. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court.

XVI.

TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER

IT IS FURTHER ORDERED that Defendants, their representatives, agents, officers, directors, employees, managers, members, and any other persons with possession, custody, or control of property of or records relating to Corporate Defendants shall, upon notice of this Order

by personal service or otherwise, immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All Assets of Corporate Defendants;
- B. All Documents of Corporate Defendants, including books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title Documents, and other papers;
- C. All computers, electronic devices, and machines and data in whatever form used to conduct the business of Corporate Defendants;
- D. All Assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of Corporate Defendants; and
- E. All keys, codes, user names, and passwords necessary to gain or to secure access to any Assets or Documents of Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems, or other property.

In the event that any Person or entity fails to deliver or transfer any Asset or 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 item covered by this Section and to deliver it to the Receiver.

XVII.

PROVISION OF INFORMATION TO RECEIVER

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

- A. A list of all Assets and property, including accounts, of Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant; and
- B. A list of all agents, employees, officers, directors, managers, members, employees, agents, or those persons in active concert and participation with Defendants, who have been associated or done business with Corporate Defendants.

XVIII.

COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants, their representatives, agents, employees, officers, directors, managers, members, and any other person served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Assets and Documents of Corporate Defendants. This cooperation and assistance shall include, but not be limited to: (A) providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; (B) providing any password required to access any computer, electronic file, or telephonic data in any medium; (C) advising all Persons who owe money to

Corporate Defendants that all debts should be paid directly to the Receiver; and (D) transferring funds at the Receiver's direction and producing records related to the Assets and sales of Corporate Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers, credit card processors, payment processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, and other Financial Institutions and depositories of any kind, as well as all common carriers, telecommunications companies, and third-party billing agents.

XIX.

PROHIBITION ON INTERFERENCE WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and their representatives, whether acting directly or through any entity, corporation, subsidiary, division, director, manager, member, employee, agent, affiliate, independent contractor, accountant, financial advisor, or other device, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby temporarily restrained and enjoined from:

- A. Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the Assets or Documents subject to this receivership;
- B. Transacting any of the business of Corporate Defendants;
- C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody

of, or in which an interest is held or claimed by, Corporate Defendants or the Receiver;

and

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

XX.

STAY OF ACTIONS AGAINST RECEIVERSHIP DEFENDANTS

IT IS FURTHER ORDERED that, except by leave of this Court, during pendency of the receivership ordered herein, Defendants, their Representatives, corporations, subsidiaries, divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers, and other Persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such Persons, are hereby temporarily enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the Assets or Documents of Corporate Defendants, including:

- A. Petitioning, or assisting in the filing of a petition, that would cause any Corporate Defendant to be placed in bankruptcy;
- B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against Corporate Defendants, including the issuance or employment of process against Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations;
- C. Filing or enforcing any lien on any Asset of Corporate Defendants, taking or attempting to take possession, custody, or control of any Asset of Corporate Defendants, or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of Corporate

Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

- D. Initiating any other process or proceeding that would interfere with the Receiver's efforts to manage or take custody, control, or possession of the Assets or Documents subject to this receivership.

PROVIDED THAT, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

XXI.

BANKRUPTCY PETITIONS

IT IS FURTHER ORDERED that, in light of the appointment of the Temporary Receiver, the Corporate Defendants are hereby prohibited from filing petitions for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, without prior permission from this Court.

XXII.

COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of

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

XXIII.

RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$ 1,000,000 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs. 28 U.S.C. § 754.

XXIV.

ACCESS TO BUSINESS OFFICES AND RECORDS

IT IS FURTHER ORDERED that, in order to allow the FTC and the Receiver to preserve Assets and evidence relevant to this action and to expedite discovery:

- A. The FTC and Receiver and their counsel, agents, representatives, contractors, and assistants shall have immediate access to the business premises and storage facilities of Corporate Defendants, including the offices located at 4005 NW 114th Avenue, Suite 13, 14 and 26, Doral, Florida 33178, and an offsite storage facility located at 3900 NW 115th Avenue, Miami, Florida 33178;

- B. The FTC and Receiver may exclude Defendants and their agents and employees from the business premises and facilities during the immediate access;
- C. The FTC and the Receiver and their counsel, agents, representatives, contractors, and assistants are authorized to obtain the assistance of the U.S. Marshal's office and other federal, state, and local law enforcement officers as they deem necessary to effect service and to implement peacefully the provisions of this Order;
- D. The FTC and Receiver and their counsel, agents, representatives, contractors, and assistants are authorized to remove Documents from Corporate Defendants' premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action;
- E. Defendants and all agents or employees of Defendants shall provide the FTC and the Receiver with any necessary means of access to Documents including, without limitation, the locations of Corporate Defendants' business premises and storage facilities, keys and combinations to Corporate Defendants' business premises or storage facility locks, computer access codes of all computers used to conduct Corporate Defendants' business, and storage area access information;
- F. If any property, records, Documents, or computer files relating to Corporate Defendants' finances or business practices are located in the residence of any Defendant or are otherwise in the custody or control of any Defendant, then such Defendant shall produce them to counsel for the FTC and the Receiver within twenty-four (24) hours of service of this Order, along with any codes or passwords needed for access. In order to prevent the destruction of computer data, upon service of this Order upon Defendants, any such

computers shall be powered down (turned off) in the normal course for the operating systems used on such computers and shall not be powered up or used again until produced for copying and inspection;

- G. In the event any Corporate Defendants' Documents have been removed from Corporate Defendants' business premises or storage facilities by, and are in the possession of any other law enforcement or investigative agency, the FTC may have immediate access to such Documents for purposes of inspection, indexing, and copying, subject to the agency consenting to access by the FTC;
- H. The FTC's or the Receiver's access to Corporate Defendants' Documents pursuant to this Section shall not provide grounds for any Defendant to object to any subsequent request for Documents served by the FTC; and
- I. The Receiver shall allow Defendants reasonable access to the business premises and business records of Corporate Defendants within his possession for the purpose of inspecting and copying materials relevant to this action, although the Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XXV.

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 122, 400 North Miami Avenue, Miami, FL, on the 16th day of June, 2014, at 9:30 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 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

XXVI.

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 Commission 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 Southern District of Florida. For purposes of discovery pursuant to this Section of the Order, service shall be sufficient if made by facsimile or by overnight courier.

XXVII.

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 Commission'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 Daylight Time, on the appropriate dates provided in this Section.

XXVIII.

TIMING OF SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Commission'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 Commission's request for a preliminary injunction.

The Commission 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.

XXIX.

ACKNOWLEDGEMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that each Defendant, within three (3) business days of service of this Order, shall submit to counsel for the FTC a sworn statement acknowledging receipt of this Order.

XXX.

CORRESPONDENCE WITH AND NOTICE TO THE COMMISSION

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

Michelle L. Schaefer
Laura D. Koss
John Andrew Singer
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3515 (Schaefer)
(202) 326-2890 (Koss)
(202) 326-3234 (Singer)
(202) 326-2558 [facsimile]
mschaefer@ftc.gov
lkoss@ftc.gov
jsinger@ftc.gov

XXXI.

EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on June 12, 2014, at 2:45 AM / PM, Eastern Daylight 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.

XXXII.

CREDIT REPORTS FROM 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 the Commission or its counsel, provide to the Commission or its counsel a consumer or credit report concerning any Defendant.

XXXIII.

RETENTION OF JURISDICTION

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

DATED this 2 day of June, 2014, at 2:45 o'clock, AM / PM.

Curtis M. Althaus
UNITED STATES DISTRICT JUDGE