

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 14-23879-CIV-ALTONAGA/O’Sullivan

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

CENTRO NATURAL CORP., et al.,

Defendants, and

BIONORE INC.,

Relief Defendant.

SEALED TEMPORARY RESTRAINING ORDER

Plaintiff, the Federal Trade Commission (“FTC”), has 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, Section 814 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692*l*, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 [ECF No. 1], and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a Temporary Restraining Order, and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue against Defendants Centro Natural Corp; Sumore, L.L.C.; Carolina Orellana; Damian Biondi; Javier Sumbre; Jessica Anzola; and proposed Relief Defendant Bionore Inc. (the “Motion”) [ECF No. 4].

I. FINDINGS OF FACT

The Court, having considered the Complaint, the *ex parte* Motion for a Temporary Restraining Order, declarations, exhibits, and the memorandum of points and authorities filed in support thereof, and being otherwise advised, finds that:

1. 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 parties hereto and that venue in this district is proper.
2. There is good cause to believe Defendants 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 FDCPA, 15 U.S.C. §§ 1692–1692p, and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action. As demonstrated by the consumer declarations, transcripts of calls with and from the Defendants, consumer complaints, and the additional documentation filed by the FTC, the FTC has established a likelihood of success in showing that the Defendants have made serious misrepresentations leading consumers to believe that they are facing legal action and other consequences if they fail to pay an alleged debt. Through the documentation filed by the FTC, the FTC has also established a likelihood of success in showing that the Defendants have violated the TSR by engaging in deceptive and abusive call tactics and disregarding the TSR requirements regarding the Do Not Call Registry.
3. There is good cause to believe that immediate and irreparable harm will result from the Defendants' ongoing violations of Section 5(a) of the FTC Act, the FDCPA, and the TSR unless Defendants are restrained and enjoined by Order of this Court.

4. There is good cause 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 if Defendants are provided with advance notice of this Order, and that therefore, in accordance with Fed. R. Civ. P. 65(b), the interests of justice require that this order be granted without prior notice to Defendants. Thus, there is good cause for relieving the FTC of the duty to provide Defendants with prior notice of the FTC's Motion for a Temporary Restraining Order.
5. Good cause also exists for: (a) the appointment of a Temporary Receiver over Corporate Defendants; (b) the freezing of Defendants' and Relief Defendant's Assets; and (c) ancillary relief ordered below.
6. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that the Court enter a Temporary Restraining Order that: (1) enjoins and restrains Defendants from engaging in further unlawful conduct; (2) imposes a temporary freeze on the Assets of Defendants and Relief Defendant; (3) appoints a Temporary Receiver over the Corporate Defendants to marshal and preserve their Assets, manage their business affairs, and ascertain whether they engage in any lawful, profitable activity; (4) grants permission to the FTC and the Temporary Receiver to immediately access the premises and records of the Corporate Defendants, and the records of the Relief Defendant; (5) requires that Defendants and Relief Defendant fully disclose all their Assets; (6) allows for limited expedited discovery; and (7) imposes limited temporary travel restrictions over the Individual Defendants.

7. The FTC is an independent agency of the United States of America and no security is required of any agency of the United States for issuance of a temporary restraining order. Fed. R. Civ. P. 65(c).

II. DEFINITIONS

For the purpose of this Temporary Restraining Order (“Order”), the following definitions shall apply:

1. **“Asset”** 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.
2. **“Assisting Others”** means providing substantial assistance or support, including any of the following goods or services, to another entity: (1) performing customer service functions, including charging consumers for products or services, or receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (3) providing names of, or assisting in the generation of, potential customers; (4) performing or providing marketing or billing services of any kind; (5) processing credit and debit card payments; or (6) acting as an officer or director of a business, corporation or other entity.

3. **“Corporate Defendants”** means, individually, collectively, or in any combination, Centro Natural Corp and Sumore, L.L.C. and their subsidiaries, affiliates, successors, and assigns.
4. **“Debt Collection”** means any attempt to collect, directly or indirectly, debts owed or asserted to be owed, or due.
5. **“Defendants”** means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.
6. **“Document” or “Documents”** includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements (including advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and any other electronically stored information, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.
7. **“Individual Defendants”** means Carolina Orellana, Damian Biondi, Javier Sumbre, and Jessica Anzola, individually, collectively, or in any combination.
8. **“Person”** means a natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, proprietorship, association,

cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

9. **“Plaintiff”** or **“Commission”** or **“FTC”** means the Federal Trade Commission.
10. **“Receiver”** or **“Temporary Receiver”** means the temporary receiver appointed in Section XIV of this Order and any deputy receivers that shall be named by the temporary receiver.
11. **“Receivership Defendants”** means the Corporate Defendants.
12. **“Relief Defendant”** means Bionore Inc. and its subsidiaries, affiliates, successors, and assigns.
13. **“Telemarketer”** means any Person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.
14. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

III. BAN REGARDING DEBT COLLECTION

IT IS HEREBY ORDERED that Defendants are restrained and enjoined from engaging in Debt Collection or Assisting others engaged in Debt Collection, whether directly or through an intermediary.

IV. BAN ON TELEMARKETING

IT IS FURTHER ORDERED that Defendants are restrained and enjoined from engaging in Telemarketing or Assisting others engaged in Telemarketing, whether directly or through an intermediary.

V. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' 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, whether acting directly or indirectly, in connection with the sale of any good or service, are hereby temporarily restrained and enjoined from:

- A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any Person who paid money to a Defendant or who were contacted or are on a list to be contacted by any Defendant; and
- B. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any Person who paid money to a Defendant or who were contacted or are on a list to be contacted by any Defendant; and
- C. Benefitting from or using the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any Person from whom or about whom any Defendant obtained such information in connection with any activity that pertains to the subject matter of this Order.

PROVIDED, however, that the Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

VI. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants and Relief Defendant, 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, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing 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 United States, that are:

1. owned, controlled or held, in whole or in part, by any Defendant or Relief Defendant;
2. held, in whole or in part, for the direct or indirect benefit of, any Defendant or Relief Defendant;
3. in the actual or constructive possession of any Defendant or Relief Defendant;
4. held by an agent of any Defendant or Relief Defendant as a retainer for the agent's provision of services to Defendants or Relief Defendant;
5. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any of the Defendants or Relief Defendant, or of which any Defendant or Relief Defendant is an officer, director, member, or manager. This includes any Assets held by, for, or subject to access by, any of the Defendants or Relief Defendant at any bank or savings and loan institution, or at/with any broker-dealer, escrow agent, title company, insurance company, commodity

trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third party processor, payment gateway or other financial institution or depository of any kind; or

6. held in any account for which any Defendant or Relief Defendant is, or was on the date that this Order was signed, an authorized signor.

- B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant or Relief Defendant, either individually or jointly, or subject to access by any Defendant or Relief Defendant, except as necessary to comply with Section XV of this Order;
- C. Obtaining a personal or secured loan encumbering the Assets of any Defendant or Relief Defendant, or subject to access by any Defendant or Relief Defendant;
- D. Incurring liens or other encumbrances on real property, personal property, or other Assets in the name, individually or jointly, of any Defendant or Relief Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or Relief Defendant; or
- E. Incurring charges or cash advances on any credit or bank card issued in the name, individually or jointly, of any Corporate Defendant or Relief Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or Relief Defendant or of which any Defendant or Relief Defendant is an Officer, Director, Member, or Manager. This includes any corporate bank card or corporate credit card account for which any Defendant or Relief Defendant is, or was on the date that this Order was signed, an authorized signor.

PROVIDED that the Assets affected by this Section shall include: (a) all Assets of the Corporate Defendants and Relief Defendant; and (b) all Assets of the Individual Defendants existing as of the date this Order was entered, or acquired by any Individual Defendant following entry of this Order, if such Assets are derived from any activity that is the subject of the Commission's Complaint or that is prohibited by this Order.

VII. DUTIES OF HOLDERS OF DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any financial or brokerage institution, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or Person served with a copy of this Order that (a) holds, controls, or maintains custody of any account or Asset of any Defendant or Relief Defendant, (b) holds, controls, or maintains custody of any Asset associated with credits, debits or charges made on behalf of any Defendant or Relief Defendant, including reserve funds held by payment processors, credit card processors, payment merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies or other entities, or (c) has held, controlled, or maintained custody of any such account or Asset at any time since the date of entry of this Order shall:

- A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Assets, as well as all Documents or other property related to such Assets, except by further order of this Court;
- B. Deny any Person, except the Receiver acting pursuant to Section XV of this Order, access to any safe deposit box, commercial mail box, or storage facility that is:

1. titled in the name of any Defendant or Relief Defendant, either individually or jointly; or
 2. otherwise subject to access by any Defendant or Relief Defendant;
- C. Provide the FTC's counsel and the Receiver, within five (5) days of receiving a copy of this Order, a sworn statement setting forth:
1. the identification number of each account or Asset:
 - a) titled in the name, individually or jointly, of any of the Defendants or Relief Defendant;
 - b) held on behalf of, or for the benefit of, any of the Defendants or Relief Defendant; or
 - c) associated with credit or debit charges made on behalf of Defendants or Relief Defendant;
 2. the balance of each such account, or a description of the nature and value of each such Asset as of the close of business on the day on which this Order is served, and, if the account or other Asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the Person or entity to whom such account or other Asset was remitted; and
 3. the identification of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any of the Defendants or Relief Defendant, or is otherwise subject to access by any of the Defendants or Relief Defendant; and

- D. Upon the request of the FTC or the Receiver, promptly provide the FTC and the Receiver with copies of all records or other Documentation pertaining to such account or Asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to such safe deposit boxes, commercial mail boxes and storage facilities.

VIII. FINANCIAL REPORTS

IT IS FURTHER ORDERED that each Defendant and Relief Defendant, within five (5) days of service of this Order upon them, shall prepare and deliver to Counsel for the Commission and the Receiver:

- A. Completed financial statements on the forms attached to the Motion as **Attachment A** (Financial Statement of Individual Defendant) for themselves individually, and **Attachment B** (Financial Statement of Corporate Defendant) for each business entity under which they conduct business or of which they are an officer, and for each trust for which any Defendant or Relief Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this Order and signed under penalty of perjury. Each Defendant and Relief Defendant shall include in the financial statements all information requested in the statements, including a full description of all funds and Assets, whether located inside or outside of the United States, that are: (a) titled in the name of such Defendant or Relief Defendant, jointly, severally, or individually; (b) held by any Person or entity for the benefit of such Defendant or Relief Defendant; or (c) under the direct or indirect control of such Defendant or Relief Defendant. Defendants and Relief

Defendant shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements;

- B. A completed statement, signed under penalty of perjury, of all payments, transfers, or assignments of Assets worth \$1,000 or more since 2011. Such statement shall include: (1) the amount transferred or assigned; (2) the name of each transferee or assignee; (3) the date of transfer or assignment; and (4) the type and amount of consideration paid to Defendant or Relief Defendant. Each statement shall specify the name and address of each financial institution and brokerage firm at which Defendant or Relief Defendant has accounts or safe deposit boxes. These statements shall include Assets held in foreign and domestic accounts; and
- C. A completed IRS Form 4506, appended to the Motion as **Attachment C**, requesting tax returns for the past three years (2011-2014) be sent to counsel for the FTC at the following address:

Janice L. Kopec
Federal Trade Commission
600 Pennsylvania Avenue NW
Mail Stop CC-8528
Washington, DC 20580
(202) 326-2550

IX. FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that within five (5) days following the service of this Order, each Defendant and Relief Defendant shall:

- A. Provide the Commission and the Receiver with a full description, verified under oath and accurate as of the date of this Order, of all funds, Documents, and Assets outside of the United States which are: (1) titled in the name, individually or jointly, of any

Defendant or Relief Defendant; or (2) held by any Person or entity for the benefit of any Defendant or Relief Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant or Relief Defendant; and

- B. Provide the Commission and Receiver access to all records of accounts or Assets of any Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records appended to the Motion as **Attachment D**.
- C. Transfer to the territory of the United States and deliver to the Receiver all funds, Documents, and Assets located in foreign countries which are: (1) titled in the name individually or jointly of any Defendant or Relief Defendant; or (2) held by any Person or entity, for the benefit of any Defendant or Relief Defendant; or (3) under the direct or indirect control of any Defendant or Relief Defendant, whether jointly or singly; and
- D. The same business day as any repatriation, (1) notify counsel for the Commission of the name and location of the financial institution or other entity that is the recipient of such funds, Documents, or Assets; and (2) serve this Order on any such financial institution or other entity.

X. INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants and Relief Defendant, 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, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Assets, or in the hindrance of the repatriation required by Section IX of this Order, including, but not limited to:

- A. Sending any statement, letter, fax, email or wire transmission, or telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement until such time that all Defendants’ and Relief Defendant’s Assets have been fully repatriated pursuant to Section IX of this Order; or
- B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a court order, until such time that all Defendants’ and Relief Defendant’s Assets have been fully repatriated pursuant to Section IX of this Order.

**XI. TEMPORARY PASSPORT SURRENDER AND TRAVEL RESTRICTION PENDING
ACCOUNT IDENTIFICATION AND REPATRIATION**

IT IS FURTHER ORDERED that:

- A. Individual Defendants shall immediately surrender to the Clerk of the Court all passports that he or she holds. Each Individual Defendant’s passport(s) will be retained by the Court pending (1) each Individual Defendant’s repatriation of foreign Assets and provision to the FTC of a sworn financial accounting as set forth in Sections VIII and IX *supra*, and (2) resolution of the Order to Show Cause, *see infra*, Section XXVIII, after which Individual Defendants may apply for return of his or her passport(s);
- B. Individual Defendants are prohibited from traveling outside of the United States pending Individual Defendant’s repatriation of foreign Assets and provision to the FTC of a sworn financial accounting as set forth in Sections VIII and IX *supra*, and (2) resolution of the Order to Show Cause, *see infra*, section XXVIII, after which Individual Defendants may apply to lift this restriction; and

- C. Any Individual Defendants not currently located within the United States upon service of the Order, shall comply with Sections XI-A and XI-B above immediately upon entry into the United States.

XII. CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency served with this Order shall promptly furnish consumer reports as requested concerning any Defendant or Relief Defendant to counsel for the Commission.

XIII. PRESERVATION OF RECORDS AND REPORT OF NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants and Relief Defendant, 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, whether acting directly or indirectly, are hereby temporarily restrained and enjoined from:

- A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, Assets, or business or Personal finances of any Defendant or Relief Defendant, (2) the business practices or finances of entities directly or indirectly under the control of any Defendant or Relief Defendant, or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant or Relief Defendant, including: any and all marketing materials, Internet pages, consumer complaints, call detail records, telephone logs, telephone scripts, contracts, correspondence, email, corporate books and records, accounting data, financial

statements, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, calendars, appointment books, and tax returns;

- B. Failing to create and maintain Documents that, in reasonable detail, accurately, fairly, and completely reflect Defendants and Relief Defendant's incomes, disbursements, transactions, and use of the Defendants and Relief Defendant's Assets; and
- C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing counsel for the Commission 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 Scott M. Dimond is appointed Temporary Receiver for the Receivership 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 the Receivership Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent

of any of the Receivership Defendants, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Defendants;

- B. Take exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control of, the Receivership 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 the Receivership Defendants and other Persons or entities whose interests are now under the direction, possession, custody, or control of, the Receivership Defendants. The Receiver shall assume control over the Receivership Defendants' income and profits and all sums of money now or hereafter due or owing to the Receivership 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 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 the Receivership 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 Receivership Assets; (3) obtaining pertinent information from all employees and other agents of the Receivership 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 internet access or other means

of access to the computers, internet or 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 the Receivership Defendants.

- D. 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;
- E. Conserve, hold, and manage all Assets of the Receivership 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 the Receivership Defendants, including determining the available Assets and preventing the unauthorized transfer, withdrawal, or misapplication of Assets;
- F. Enter into and cancel contracts, and purchase insurance as advisable or necessary;
- G. Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with the Receivership Defendants;
- H. Manage and administer the business of the Receivership Defendants until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents, provided that the Receiver shall suspend business operations of the

Receivership Defendants if, in the judgment of the Receiver, such operations cannot be continued legally or profitably;

- I. Prevent the destruction or erasure of any web page or website registered to and operated, in whole or in part, by Receivership Defendants;
- J. 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;
- K. 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 the Receivership Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of the Receivership Defendants, such as rental payments;
- 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 the Receivership 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 the Receivership Defendants, as the Receiver deems necessary and advisable to

preserve the Assets of the Receivership 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 the Receivership Defendants. The Receiver shall deposit all funds of the Receivership 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 the Defendants and Relief Defendant, 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, and any other Person with possession, custody or control of property or of records relating to the Receivership 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 the Receivership Defendants;

- B. All Documents of the Receivership 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 the Receivership Defendants;
- D. All Assets and Documents belonging to other Persons or entities whose interests are under the direction, possession, custody, or control of the Receivership Defendants; and
- E. All keys, codes, user names and passwords necessary to gain or to secure access to any Assets or Documents of the Receivership 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 and Relief Defendant shall provide to the Receiver, immediately upon request, the following:

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

XVIII. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and Relief Defendant, 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, 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 of the Receivership Defendants. This cooperation and assistance shall include, but not be limited to: providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; advising all Persons who owe money to the Receivership Defendants that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the Assets and sales of the Receivership 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'S WORK

IT IS FURTHER ORDERED that Defendants and Relief Defendant, 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, and their corporations, subsidiaries, divisions, or affiliates, are hereby 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 the Receivership 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, the Receivership 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 the pendency of the Receivership ordered herein, Defendants, Relief Defendant, 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, and their 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 or Relief

Defendant, and all others acting for or on behalf of such Persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Defendants, including:

- A. Filing or assisting in the filing of a petition for relief under the Bankruptcy Code, 11 U.S.C. § 101 et seq., or of any similar insolvency proceeding.
- B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Receivership Defendants, including the issuance or employment of process against the Receivership 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 the Receivership Defendants, taking or attempting to take possession, custody, or control of any asset of the Receivership Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Receivership Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise; or
- D. Initiating any other process or proceeding that would interfere with the Receiver managing or taking 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. 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, the Receivership 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.

XXII. 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.

XXIII. ACCESS TO BUSINESS OFFICES AND RECORDS

IT IS FURTHER ORDERED that, in order to allow the Commission and the Receiver to preserve Assets and evidence relevant to this action, and to expedite discovery, Commission counsel and the Receiver, and their agents, and assistants, shall have immediate access to the business premises and storage facilities, owned, controlled, or used by the Receivership Defendants. Such locations include, but are not limited to: 1001 N Federal Hwy, Suite 319, Hallandale Beach, FL 33009 and any offsite commercial mail boxes used by any Receivership Defendant. The Commission and the Receiver, and their representatives, agents, 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.

Furthermore, in order to allow the Commission and the Receiver to preserve Assets and evidence relevant to this action, and to expedite discovery, Commission counsel and the Receiver, and their agents, and assistants, shall have immediate access to the records of the Receivership Defendants and the records of the Relief Defendant. The Commission and the Receiver, and their representatives, agents, and assistants, are authorized to remove Documents from the Receivership Defendants' and Relief Defendant's premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action.

Furthermore, the Receiver shall allow the Defendants and Relief Defendant reasonable access to the premises and records of the Receivership Defendants and the records of the Relief Defendant within his possession for the purpose of inspecting and copying materials relevant to this action. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XXIV. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that the Defendants shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, servant, attorney, spouse, subsidiary, division, and representative of any Defendant, and shall, within ten (10) days from the date of entry of this Order, and provide the Commission and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the

names, physical addresses, phone number, and email addresses of each such Person or entity who received a copy of the Order. Furthermore, Defendants shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other Persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

XXV. EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(c), and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, the Commission is granted leave, at any time after service of this Order, to conduct limited expedited discovery as set forth in this Section. For the purpose of discovering the (1) nature, location, status, and extent of Defendants' and Relief Defendant's Assets, (2) nature and location of Documents reflecting the Defendants' businesses, business transactions and operations, (3) the telecommunications providers that Defendants utilize to conduct the practices alleged in the FTC's complaint; or (4) compliance with this Order:

- A. Take the deposition of any Person on 48 hours notice. The limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the Federal Rules of Civil Procedure regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone or other remote electronic means;
- B. Demand the production of Documents, on five (5) days of notice, from any Person, whether or not a party, provided that three (3) days of notice shall be deemed sufficient

for the production of any such Documents that are maintained or stored only in an electronic format;

- C. Service of discovery upon a party to this lawsuit, taken pursuant to this Section, shall be sufficient if made by facsimile, email or by overnight delivery. Any expedited discovery taken pursuant to this Section is in addition to, and is not subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure and Local Rules of this Court;
- D. If a Defendant or Relief Defendant fails to appear for a properly noticed deposition or fails to comply with a request for production or inspection, that Defendant or Relief Defendant may be prohibited from introducing evidence at the hearing on the Commission's request for a preliminary injunction;
- E. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Rules 26(d) & (f) of the Federal Rules of Civil Procedure; and
- F. The Parties are exempted from making initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(B) until further order of this Court.

XXVI. SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order as well as the Motion for Temporary Restraining Order and all other pleadings, Documents, and exhibits filed contemporaneously with that Motion (other than the complaint and summons), may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, or by U.S. Mail and/or FedEx, by agents and employees of Plaintiff, by any law enforcement agency, or by private process server, upon any Defendant or any Person (including any financial institution) that may have possession, custody or control of

any property, property right, Document, or Asset of any Defendant or Relief Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity. This Order shall bind Persons (including entities) that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure upon such Person's receipt of actual notice, by personal service or otherwise, of this Order. *See* Fed. R. Civ. P. 65(d)(2).

XXVII. CORRESPONDENCE AND SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the Commission shall be addressed to:

Janice Kopec
Dotan Weinman
Federal Trade Commission
600 Pennsylvania Avenue NW
Mail Stop CC-8528
Washington, DC 20580
(202) 326-2550 (Kopec phone)
(202) 326-3049 (Weinman phone)
(202) 326-3395 (fax)
jkopec@ftc.gov
dweinman@ftc.gov

XXVIII. PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 65(b), Defendants and Relief Defendant shall appear before this Court on **Friday, October 31, 2014, at 10:00 a.m.**, to show cause, if there is any, why the Court should not enter a preliminary injunction, pending final ruling on the Complaint against Defendants and Relief Defendant, enjoining the violations of the law alleged in the Commission's Complaint, continuing the freeze of their Assets, continuing the Receivership, and imposing such additional relief as may be appropriate.

XXIX. BRIEFS & AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that the Defendants and Relief Defendant shall file with the Court and serve on the Commission's counsel any answering pleadings, affidavits, motions, expert reports or declarations, and/or legal memoranda no later than seven (7) days prior to the hearing on the 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 the Defendants and Relief Defendant no later than one (1) day prior to the preliminary injunction hearing in this matter. Provided, however, such affidavits, pleadings, motions, expert reports, declarations, legal memoranda and/or oppositions must be served by personal or overnight delivery, facsimile or email, and be *received* by the other party or parties no later than 5:00 p.m. (Eastern Daylight Time) on the appropriate dates set forth in this Section.

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 and material factual issue. *See, e.g., McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1312-13 (11th Cir. 1998). The question of whether the Court should enter a preliminary injunction shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. Live testimony shall be heard only on further order of this Court. Any motion to permit such testimony shall be filed with the Court and served on counsel for the other parties at least five (5) 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 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) days prior to the preliminary injunction hearing in this matter, provided that service shall be performed by personal or overnight delivery, facsimile or email, and Documents shall be delivered so that they shall be received by the other parties no later than 5:00 p.m. (Eastern Daylight Time) on the appropriate dates provided in this Section.

XXX. DURATION OF THE ORDER

IT IS FURTHER ORDERED that this Order shall expire fourteen (14) days from the date of entry noted below, unless within such time, the Order is extended for an additional period pursuant to Federal Rule of Civil Procedure 65(b)(2).

XXXI. RETENTION OF JURISDICTION

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

DONE AND ORDERED in Miami, Florida, this 20th day of October, 2014.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record