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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

<p>Federal Trade Commission, all Fifty States, and the District of Columbia,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>Cancer Fund of America, Inc., a Delaware corporation, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>No. CV-15-00884-PHX-NVW</p> <p>STIPULATED ORDER APPOINTING RECEIVER OVER THE BREAST CANCER SOCIETY, INC.</p>
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Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and the states of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia (“Plaintiff States”), and Defendant The Breast Cancer Society, Inc., also d/b/a The Breast Cancer Society of America (“BCS”), having stipulated to the entry of a separate and concurrently filed Stipulated Order for Permanent Injunction and Monetary

1 Relief Against The Breast Cancer Society, Inc., further stipulate to entry of this
2 Stipulated Order Appointing Receiver Over The Breast Cancer Society, Inc. (“Order”).

3 THEREFORE, IT IS ORDERED as follows:

4 **FINDINGS**

5 1. Plaintiffs and BCS have consented to entry of a Stipulated Order for
6 Permanent Injunction and Monetary Judgment Against The Breast Cancer Society, Inc.
7 (“Permanent Injunction”).

8 2. The Permanent Injunction requires that the assets of BCS be liquidated to
9 partially satisfy the monetary judgment entered against it and its corporate existence be
10 dissolved.

11 3. Plaintiffs and BCS have consented to entry of this Stipulated Order
12 Appointing Receiver Over The Breast Cancer Society, Inc.

13 4. Pursuant to the Federal Rules of Civil Procedure, this Court’s general
14 equitable authority, and Sections 13(b) and 19 of the Federal Trade Commission Act,
15 15 U.S.C. § 53(b) and 57(b), this Court has the authority to enter the requested relief.

16 **DEFINITIONS**

17 For purposes of this Order, the following definitions shall apply:

18 1. “BCS” means The Breast Cancer Society, Inc., also d/b/a The Breast
19 Cancer Society of America, and its successors and assigns.

20 2. “GAIC Policies” means the Great American Insurance Company
21 (“GAIC”) “Nonprofit Solution” Insurance Policies, Policy No. EPP1092321, for the
22 Policy Periods of: (1) January 20, 2010 to January 20, 2011; (2) January 20, 2011 to
23 January 20, 2012; (3) January 20, 2012 to January 20, 2013; (4) January 20, 2013 to
24 January 20, 2014; and (5) January 20, 2014 to January 20, 2015.

25 3. “Permanent Injunction” means the Stipulated Order for Permanent
26 Injunction and Monetary Judgment Against The Breast Cancer Society, Inc., agreed to
27 by BCS.
28

1 4. “STCO Fund” means the Litigation Deposits Trust Fund (Fund Code “T-
2 xx-909N”), an interest bearing trust fund held by the Hawaii Attorney General’s Office
3 in trust for the Plaintiff States into which Section VII.D.1 of the Permanent Injunction
4 requires the BCS Receiver to deposit all monies to be paid to the Plaintiff States.

5 5. “Person” means a natural person, an organization or other legal entity,
6 including a corporation, partnership, sole proprietorship, limited liability company,
7 association, cooperative, or any other group or combination acting as an entity.

8 6. “Fundraising” means a plan, program, or campaign that is conducted to
9 induce charitable contributions by mail, telephone, electronic mail, social media, or any
10 other means.

11 7. “Nonprofit organization” means any person that is, or is represented to be,
12 a nonprofit entity, or that has, or is represented to have, a charitable purpose, specifically
13 including but not limited to any such entity that purports to benefit, either in whole or in
14 part, individuals who suffer or have suffered from cancer.

15 8. “HSW Assets” means the BCS assets related to operating its Hope Supply
16 Warehouse program, including, e.g., inventory, equipment, furnishings, and fixtures,
17 and, separately, the cash set aside for operating the existing Hope Supply Warehouse
18 program and disbursing to an Approved Qualified Charity or Charities as set forth in
19 Section IV, below. The cash set aside for this purpose is dependent on the funds
20 available in the BCS Receivership estate and shall not exceed \$800,000.

21 9. “And” and “or” shall be construed both conjunctively and disjunctively to
22 make the applicable sentence or phrase inclusive rather than exclusive.

23 **ORDER**

24 **I. LIQUIDATING RECEIVER**

25 IT IS FURTHER ORDERED that Receivership Management, Inc., 783 Old
26 Hickory Boulevard, Suite 255, Brentwood, Tennessee 37027, is appointed by this Court
27 as Liquidating Receiver (“Receiver”) with all the rights and privileges of an equity
28 receiver over BCS for the purposes of taking charge of the property and assets (except

1 the GAIC Policies) of BCS, conducting the necessary steps to wind down its affairs,
2 transferring or liquidating its assets as specified below, and dissolving its corporate
3 existence. The Receiver shall be the agent of this Court, and solely the agent of this
4 Court, in acting as Receiver under this Order. The Receiver shall be accountable
5 directly to this Court.

6 **II. RECEIVER'S DUTIES AND AUTHORITIES**

7 IT IS FURTHER ORDERED that the Receiver shall be authorized and directed to
8 do any and all acts necessary to the proper and lawful conduct of this receivership,
9 subject to the control of this Court, including but not limited to:

10 A. Take any and all steps that the Receiver concludes are appropriate to wind
11 down the affairs of BCS, transfer or liquidate its assets as specified below, and dissolve
12 its corporate existence;

13 B. Exercise full control of BCS and collect, marshal, and take custody,
14 control, and possession of all the funds, property, premises, accounts, documents, mail,
15 and other assets of, or in the possession or under the control of, BCS (except the GAIC
16 Policies), wherever situated, the income and profits therefrom, and all sums of money
17 now or hereafter due or owing to BCS, with full power to collect, receive and take
18 possession of all goods, chattels, rights, credits, monies, rents, effects, lands, leases,
19 books and records, limited partnership records, work papers, and records of accounts,
20 including computer maintained information, contracts, financial records, monies on hand
21 in banks and other financial institutions, and other papers and documents of other
22 individuals, partnerships or corporations whose interests are now held by or under the
23 direction, possession, custody, or control of BCS;

24 C. Perform all acts necessary or advisable to complete an accounting of the
25 assets of BCS, prevent unauthorized transfer, withdrawal, or misapplication of the assets
26 of BCS, and preserve and pursue recovery of the assets of BCS from third parties
27 (except the GAIC Policies);
28

1 D. Make disbursements for operating expenses as required to operate the BCS
2 Hope Supply Warehouse program pursuant to Section IV.C, below, and as may be
3 appropriate to wind down the affairs of BCS, such as for undertaking repairs, and take
4 any other actions necessary to efficiently manage all real and personal property in order
5 to maintain its value;

6 E. Purchase insurance as advisable or necessary. The Receiver may keep in
7 force the existing insurance coverage(s), each of which shall name the Receiver as an
8 additional insured thereunder. The Receiver acknowledges and agrees that when this
9 Order is entered, the GAIC Policies are not part of this Order;

10 F. Enter into new or amended contracts, agreements, understandings, or other
11 commitments and terminate or abrogate, in the Receiver's sole sound business
12 discretion, any or all agreements, contracts, understandings, or commitments entered
13 into by BCS, to the extent permitted by applicable law. The Receiver shall not be bound
14 by any unsecured contracts, agreements, understandings, or other commitments in the
15 nature of service contracts that BCS has, had, or may have with third parties, whether
16 oral or written. The Receiver may agree to become bound by any such contracts,
17 agreements, understandings, or other commitments by affirmative written ratification
18 executed by the Receiver. ***Provided that*** the Receiver shall terminate any and all
19 fundraising contracts within 30 days of entry of this Order.

20 G. Make payments and disbursements from the assets of BCS that are
21 necessary or advisable for carrying out the provisions of, or exercising the authority
22 granted by, this Order. The Receiver shall apply to the Court for prior approval of any
23 payment of any debt or obligation incurred by BCS prior to the date of entry of this
24 Order, except payments that the Receiver deems necessary or advisable to operate the
25 BCS Hope Supply Warehouse program pursuant to Section IV.C, below, or to secure
26 and liquidate assets of BCS, such as rental payments or payment of liens; Request that
27 the Clerk of the Court issue subpoenas, or have subpoenas issued by the Receiver's
28 attorney pursuant to Rule 45(a)(3) of the Federal Rules of Civil Procedure, to obtain

1 documents and records pertaining to the assets of BCS, and otherwise to conduct
2 discovery on behalf of BCS as permitted by the Federal Rules of Civil Procedure,
3 directly or through the Receiver's attorney;

4 H. Institute, prosecute, defend, compromise, intervene, adjust, appear in, and
5 become a party either in the Receiver's name or in the name of BCS to such suits,
6 actions, or proceedings in state, federal, or foreign courts as may be necessary for the
7 protection, maintenance, recoupment, or preservation of the assets of BCS, including
8 proceedings seeking the avoidance of fraudulent transfers, disgorgements of profits,
9 imposition of constructive trusts, and any other legal and equitable relief that the
10 Receiver deems necessary and appropriate to preserve and recover assets of BCS.
11 ***Provided that*** the Receiver may not pursue an action against any individual BCS
12 director under Ariz. Rev. Stat. Section 10-3833;

13 I. Bring such proceedings and actions as are necessary to enforce or modify
14 the provisions of this Order;

15 J. Perform all incidental acts that the Receiver deems to be advisable or
16 necessary to operate and otherwise manage the affairs of BCS during its winding down
17 phase, transfer or liquidate its assets, and dissolve its corporate existence, including,
18 without limitation, the following powers and responsibilities to:

19 1. Retain, hire, or dismiss any employees, independent contractors,
20 and agents as the Receiver deems advisable or necessary;

21 2. Supervise and oversee the management of BCS, including making
22 payments and paying taxes as and when the Receiver has funds available from BCS, or
23 from the liquidation thereof;

24 3. Employ such counsel, real estate agents, auctioneers, appraisers,
25 accountants, contractors, other professionals, and other such persons as may be
26 necessary in order to carry out the duties as Receiver and to preserve, maintain, recover,
27 recoup, and protect the assets of BCS;

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1 4. Open new accounts with, or negotiate, compromise or otherwise
2 modify the existing obligations of BCS with third parties, including utility companies
3 and other service providers or suppliers of goods and services, and to otherwise enter
4 into such agreements, contracts, or understandings with such third parties as are
5 necessary to maintain, preserve, and protect the assets of BCS; and

6 5. Open new bank, brokerage or investment accounts with respect to
7 the Receiver's management and operation of BCS, and deposit any cash or other assets
8 into said accounts;

9 K. Dispose of, or arrange for the disposal of, the records of BCS no later than
10 six months after the Court's approval of the Receiver's final report, except that, to the
11 extent that any federal, state, or local law regulating BCS's activities requires the
12 retention of particular records for a specified period, the Receiver shall arrange for such
13 records to be disposed of after the specified period has expired. For any such records,
14 the Receiver may elect to retain records in their original form, or to retain photographic
15 or electronic copies. Records containing personal financial information, personal
16 identifying information, or sensitive health information must be shredded, incinerated, or
17 otherwise disposed of in a secure manner. Records containing the name, address, email
18 address and/or telephone number of any person who made a donation to BCS (i.e., any
19 donor list) may not be sold, rented, leased, transferred, or otherwise disclosed to any
20 third party except as provided for in Section IV.C.1.c, below, and must be destroyed;
21 and

22 L. Pay to the STCO Fund any and all sums collected over and above those
23 necessary to wind down the affairs of BCS, transfer HSW Assets as specified in Section
24 IV, below, or otherwise liquidate its assets, and dissolve it, or those necessary to make
25 payments authorized by this Receivership Order.

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1 **III. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

2 IT IS FURTHER ORDERED that BCS, its representatives, agents, officers,
3 directors, employees, managers, members, and any other persons with possession,
4 custody, or control of property of or records relating to BCS shall:

5 A. Upon notice of this Order by personal service or otherwise, immediately
6 notify the Receiver of all such property and records and, upon receiving a request from
7 the Receiver, immediately transfer or deliver to the Receiver possession, custody, and
8 control of the following:

9 1. All assets of BCS, including but not limited to any legal or
10 equitable interest in, right to, or claim to, any real, personal, or intellectual property,
11 including chattel, goods, instruments, equipment, fixtures, general intangibles, effects,
12 leaseholds, contracts, mail or other deliveries, shares of stock, securities, inventory,
13 checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform
14 Commercial Code), insurance policies (except the GAIC Policies), lines of credit, cash,
15 trusts (including asset protection trusts), lists of donor names, and reserve funds or any
16 other accounts associated with any donations or other payments processed by, or on
17 behalf of, BCS, including such reserve funds held by payment processors, credit card
18 processors, caging companies, banks, or other financial institutions;

19 2. All documents of BCS, including books and records of accounts, all
20 financial and accounting records, balance sheets, income statements, bank records
21 (including monthly statements, canceled checks, records of wire transfers, and check
22 registers), client lists, donor lists, title documents, and all other materials listed in
23 Federal Rule of Civil Procedure 34(a), including writings, drawings, graphs, charts,
24 photographs, audio and video recordings, computer records, digital records, and other
25 data compilations from which information can be obtained and translated, if necessary,
26 into reasonably usable form through detection devices;

27 3. All computers, electronic devices, machines, and data in whatever
28 form used to conduct the business of BCS;

1 4. All assets and documents belonging to other persons or entities
2 whose interests are under the direction, possession, custody, or control of BCS; and

3 5. All keys, codes, user names, and passwords necessary to gain or to
4 secure access to any assets or documents of BCS, including access to its business
5 premises, means of communication, accounts, computer systems, or other property.

6 B. Waive all claims to, and unconditionally release and consent to transfer
7 possession and legal and equitable title, of all property of BCS to the Receiver or a trust
8 designated by the Receiver; and

9 C. Until BCS surrenders possession and legal and equitable title of all
10 property of BCS to the Receiver, BCS shall:

11 1. Maintain and take no action to diminish the value of BCS's
12 property, including any structures, fixtures, and appurtenances thereto;

13 2. Remain current on all amounts due and payable on the property of
14 BCS, including but not limited to taxes, insurance, maintenance, and similar fees; and,

15 3. Cause existing insurance coverage for the property of BCS to
16 remain in force until the surrender of possession and legal and equitable title, and shall
17 both notify the insurance carrier(s) immediately of the appointment of the Receiver and
18 request that the Receiver be added to the insurance policy or policies as an additional
19 insured thereunder.

20 D. Notwithstanding any other term, condition, or provision of this Order, the
21 Receiver shall not have any legal or equitable rights to the GAIC Policies including, but
22 not limited to, the payment of \$389,500 being made by GAIC and into the STCO Fund
23 (the "GAIC Payment"). The Receiver expressly agrees that: (i) the GAIC Policies and
24 the GAIC Payment are not assets that are subject to this Order; and (ii) prior to this
25 Order becoming effective, BCS has agreed that the GAIC Policies are completely
26 released, null and void, and of no effect whatsoever.

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1 **IV. TRANSFER OF HOPE SUPPLY WAREHOUSE ASSETS**

2 IT IS FURTHER ORDERED that the Receiver shall, if practicable, transfer BCS
3 assets related to its existing Hope Supply Warehouse program (“HSW Assets”) and cash
4 disbursements in an amount not to exceed \$800,000 to a qualified charity or charities
5 approved by the Receiver and willing to operate a similar program, as follows:

6 A. Recommending Qualified Charities:

7 1. Any member of the BCS board of directors who held such position
8 as of the date of entry of this Order may recommend to the Receiver potential qualified
9 charities to receive HSW Assets and operate a Hope Supply Warehouse-type program or
10 programs in each location where BCS currently operates such a program.

11 2. To be qualified, a charity must:

- 12 a. Be incorporated as a nonprofit corporation;
- 13 b. Have been granted tax-exempt status pursuant to Section
14 501(c)(3) by the IRS or have filed a Form 1023 application for such status and
15 obtained a written fiscal sponsorship with another nonprofit corporation;
- 16 c. Be registered in each jurisdiction where such registration is
17 necessary;
- 18 d. Have timely filed a Form 990 or Form 990 EZ for the last
19 fiscal period when such a filing was due;
- 20 e. Have a mission related at least in part to serving the needs of
21 breast cancer patients;
- 22 f. Have adequate insurance;
- 23 g. Have a fiscally responsible budget and a plan for operating a
24 Hope Supply Warehouse-type program or programs for at least one (1) year in a
25 location or locations where BCS operates existing Hope Supply Warehouse
26 programs;
- 27 h. Have reasonable safeguards in place to prevent violations of
28 state and federal law, specifically including laws prohibiting deceptive charitable

1 solicitations and those regarding private inurement in the governance of nonprofit
2 organizations. Any charity following practices recommended by the Better
3 Business Bureau’s Wise Giving Alliance “Standards,” the Evangelical Council
4 for Financial Accountability’s “Standards for Responsible Stewardship,” or the
5 Independent Sector’s “Principles for Good” shall be deemed to have such
6 reasonable safeguards in place; and

7 i. Agree to enter into a contract with the Receiver that includes
8 the requirements set forth in Section IV.F, below.

9 3. The Receiver shall verify the qualifications of each suggested
10 charity and may make any further inquiries reasonably necessary to assist in selecting a
11 qualified charity. Any charity wishing to be selected must cooperate with the Receiver
12 during this verification and selection process.

13 4. All recommendations of qualified charities must be made to the
14 Receiver within 120 days of entry of this Order.

15 B. Selecting a Qualified Charity

16 1. If the Receiver verifies that one or more charities have the
17 necessary qualifications, the Receiver shall use the following factors to select one or
18 more qualified charities (“Approved Qualified Charity” or “Approved Qualified
19 Charities”):

- 20 a. Its mission;
- 21 b. Its fiscal soundness;
- 22 c. Its governance and financial controls;
- 23 d. Its history of compliance with federal, state, and local laws;
- 24 e. The background and expertise of its directors and staff;
- 25 f. The nature and scope of any existing operations; and
- 26 g. The nature and viability of its plans for long-term operation
27 of a Hope. Supply Warehouse-type program, including, e.g., staffing, fundraising,
28 and budget.

1 2. The Receiver shall give preference to qualified charities local to
2 each existing Hope Supply Warehouse that can demonstrate involvement in and support
3 from the local community.

4 3. The Receiver shall select the Approved Qualified Charities within
5 180 days of entry of the Order. If no charity or charities is recommended, or if the
6 Receiver determines that no such recommended charity or charities is sufficiently
7 qualified, the Receiver shall notify BCS and Plaintiffs and, except as continued
8 operations are provided for in Section IV.D, below, close the existing Hope Supply
9 Warehouse programs and liquidate the HSW Assets pursuant to Section II, above.

10 4. If an Approved Qualified Charity is not located to operate all
11 existing Hope Supply Warehouse locations, the Receiver shall liquidate the assets of
12 each such Hope Supply Warehouse location for which no Approved Qualified Charity
13 was selected pursuant to Section II, above.

14 5. The Receiver shall notify BCS and Plaintiffs of each selected
15 Approved Qualified Charity ten days prior to the Receiver filing its notice and request
16 for approval below with the Court, as provided under Section IV.B.6, below.

17 6. Upon selection of the Approved Qualified Charities and notice to
18 BCS and Plaintiffs, the Receiver shall timely file with the Court a “Notice of Selection
19 of Approved Qualified Charities” and seek the Court’s authorization to transfer the
20 HSW Assets to the Approved Qualified Charities.

21 7. BCS or the Plaintiffs may file an objection with the Court within
22 ten days of the Receiver’s filing the “Notice of Selection of Approved Qualified
23 Charities.” If no such objection is timely filed, BCS and Plaintiffs shall be deemed to
24 have waived any objections to the Approved Qualified Charities.

25 8. After receiving authorization from the Court, the Receiver shall
26 close the existing Hope Supply Warehouse operations and provide the HSW Assets to
27 the Approved Qualified Charities.

28 C. Transfer of HSW Assets:

1 1. If the Receiver is operating the existing Hope Supply Warehouse
2 locations at the time the Approved Qualified Charities are selected, the Receiver shall
3 close them and transfer HSW Assets to each Approved Qualified Charity as follows:

4 a. Transfer the HSW Assets used by BCS to operate each
5 existing Hope Supply Warehouse to the Approved Qualified Charity selected to
6 operate a Hope Supply Warehouse-type program in that location;

7 b. Lease, transfer the lease, or sublet the space occupied by
8 each existing Hope Supply Warehouse location to the Approved Qualified
9 Charity that will operate in that location, to the extent commercially reasonable
10 and contractually permitted; and

11 c. Share with each Approved Qualified Charity relevant
12 information about the operation of each existing Hope Supply Warehouse
13 location where the Approved Qualified Charity will operate a new Hope Supply
14 Warehouse-type program, including but not limited to, inventories, volunteer
15 lists, local community contacts, corporate sponsors, and patient information.
16 ***Provided that*** the Receiver shall not transfer any donor list or other donor
17 information originating from any telemarketing call. All such telemarketing
18 donor lists shall be destroyed pursuant to Section II.L, above. ***Provided further***
19 that, to the extent that the information is readily ascertainable, the Receiver may
20 provide each Approved Qualified Charity with lists of donors who participated in
21 any in-person or online fundraising effort specifically seeking support for the
22 BCS Hope Supply Warehouse program in any location that the Approved
23 Qualified Charity will operate. All personal identifying information or sensitive
24 health information about any volunteer, patient, donor, or other individual must
25 be maintained and transferred in compliance with appropriate security protocols
26 and in accordance with applicable laws.

27 2. If, at the time the Approved Qualified Charities are selected, the
28 Receiver has closed the existing Hope Supply Warehouse operations pursuant to Section

1 IV.D.2, below, the Receiver may, at the Receiver's sole discretion, transfer to the
2 Approved Qualified Charities any HSW Asset identified in Section IV.C.1, above that
3 still remains in the BCS receivership estate. Any such Approved Qualified Charity shall
4 receive cash distributions as set forth in Section IV.E, below.

5 D. Continuing Hope Supply Warehouse Operation:

6 1. To the extent that sufficient BCS assets exist to do so, the Receiver
7 shall use reasonable best efforts to operate the existing Hope Supply Warehouse
8 program for 90 days following entry of this Order.

9 2. If no qualified charity or charities is recommended pursuant to
10 Section IV.A, above, within the initial 90 day operation period, the Receiver may close
11 the existing Hope Supply Warehouse program and liquidate its assets pursuant to
12 Section II, above.

13 3. If the Receiver so recommends and adequate funds exist, BCS and
14 Plaintiffs may agree to extend the Receiver's operation of the existing Hope Supply
15 Warehouse program for up to an additional 90 days. Such agreement may not be
16 unreasonably withheld. Factors that reasonably may be considered in agreeing to an
17 extension include the cost of ongoing operations and any progress in identifying and
18 selecting a qualified charity or charities. Costs related to operating the existing Hope
19 Supply Warehouse program shall be deducted from the total amount of cash available
20 for distribution to any Approved Qualified Charity pursuant to Section IV.E, below.

21 E. Cash Distributions:

22 1. To the extent that funds from the BCS receivership estate are
23 available, the Receiver may spend up to \$800,000 operating the existing Hope Supply
24 Warehouse program and distributing cash to the Approved Qualified Charities for their
25 use in operating Hope Supply Warehouse-type programs at each general location where
26 BCS previously operated a Hope Supply Warehouse. In addition, the Receiver may
27 distribute up to an additional \$45,000 to a charity for use in Texas, as set forth in Section
28 IV.E.1.b, below. The cash shall be distributed as follows:

1 a. To the extent that funds from the BCS receivership estate are
2 available, the Receiver shall make an initial distribution of the cash necessary to
3 operate a Hope Supply Warehouse-type program for 60 days to each Approved
4 Qualified Charity for each location it will operate. The Receiver shall determine
5 that amount based on the Receiver’s experience operating the BCS Hope Supply
6 Warehouse program and the budget initially proposed by the Approved Qualified
7 Charity.

8 b. To the extent that funds from the BCS receivership estate are
9 available, at the time that the Receiver makes an initial distribution to any
10 Approved Qualified Charity pursuant to IV.E.1.a, above, or determines that no
11 Approved Qualified Charity can be selected pursuant to Section IV.B.3, above,
12 the Receiver shall also make a one-time distribution not to exceed \$45,000 to a
13 charity to be used solely to provide direct aid to breast cancer patients in Texas
14 (“Texas Charity”). The Texas Charity shall be recommended and selected as
15 provided for in Sections IV.A and B., above, except that the Texas Charity need
16 not agree to operate a Hope Supply Warehouse-type program, but rather must
17 agree that it will use the \$45,000 exclusively to provide direct aid to breast cancer
18 patients and for no other purpose.

19 c. To the extent that funds from the BCS receivership estate are
20 available and some portion remains of the \$800,000 total allotted in Section
21 IV.E.1, above, the Receiver shall make a second distribution of the cash
22 necessary to operate a Hope Supply Warehouse-type program for an additional 60
23 days to each Approved Qualified Charity for each location it is operating. The
24 Receiver shall determine that amount based on the Receiver’s experience
25 previously operating the BCS Hope Supply Warehouse program, the budget
26 initially proposed by the Approved Qualified Charity, and the report of the
27 Approved Qualified Charity made pursuant to Section IV.G, below.
28

1 d. To the extent that funds from the BCS receivership estate are
2 available and some portion remains of the \$800,000 total allotted in Section
3 IV.E.1, above, the Receiver shall make a third distribution of the cash necessary
4 to operate a Hope Supply Warehouse-type program for an additional 60 days to
5 each Approved Qualified Charity for each location it is operating. The Receiver
6 shall determine that amount based on the Receiver's experience previously
7 operating the BCS Hope Supply Warehouse program, the budget initially
8 proposed by the Approved Qualified Charity, and the report of the Approved
9 Qualified Charity made pursuant to Section IV.G, below.

10 e. To the extent that funds from the BCS receivership estate are
11 available and some portion remains of the \$800,000 total allotted in Section
12 IV.E.1, above, no later than 180 days after the Receiver's initial distribution of
13 cash the Receiver shall equally divide the remaining portion of the \$800,000
14 between each Approved Qualified Charity for each location, not to exceed a
15 disbursement of \$200,000 per location.

16 2. The Receiver shall make no cash distributions to any Approved
17 Qualified Charity that has:

- 18 a. An outstanding report required by Section IV.G, below;
- 19 b. A pending request for information by the Receiver related to
20 the Approved Qualified Charity's budget, its operation of the Hope Supply
21 Warehouse-type program, or its compliance with the contract for transfer
22 described in Section IV.F, below; or
- 23 c. Materially violated the terms of the contract to transfer assets
24 described in Section IV.F below.

25 F. Contract for Transfer:

26 1. The Receiver and any Approved Qualified Charity shall enter into a
27 contract outlining the terms of the transfer of HSW Assets and cash disbursements and
28 the Approved Qualified Charity's on-going operation of a Hope Supply Warehouse-type

1 program at each location for which the charity was approved (“Transfer Contract”). The
2 Transfer Contract shall include the following requirements:

3 a. The Approved Qualified Charity may use any HSW Assets
4 or cash disbursements it receives only to operate a Hope Supply Warehouse-type
5 program for the benefit of financially distressed breast cancer patients;

6 b. The Approved Qualified Charity must operate the Hope
7 Supply Warehouse-type program for at least one year, *provided that* if it becomes
8 impracticable to operate such a program within six months of transfer of any
9 HSW Assets or cash disbursements, the Approved Qualified Charity agrees to
10 notify the Receiver and transfer any remaining HSW Asset or cash disbursement
11 monies to the Receiver pursuant to Section III, above.

12 c. The Approved Qualified Charity must, to the extent
13 practicable, follow the proposed budget and operational plan described in Section
14 IV.A.2, above.

15 d. The Approved Qualified Charity may not employ James
16 Reynolds, II or Kristina Reynolds in any capacity;

17 e. The Approved Qualified Charity may not permit James
18 Reynolds II, Kristina Reynolds, Eric Fransen, or any Individual Defendant named
19 in this matter, or any of their relatives, to serve as a director or officer of its Board
20 of Directors; and

21 f. The Approved Qualified Charity may not permit a majority
22 of its Board of Directors to be comprised of persons who at any time served as
23 directors or officers of the Boards of Directors of BCS, Cancer Fund of America,
24 Inc., Cancer Support Services, Inc., or Children’s Cancer Fund of America, Inc.

25 G. Approved Qualified Charity Reports:

26 1. Each Approved Qualified Charity must provide three reports to the
27 Receiver at intervals of 45, 105, and 165 days following transfer of HSW Assets and
28 receipt of the initial cash disbursement described in Section IV.E, above. The reports

1 shall i) specifically describe the Approved Qualified Charity's compliance with the
2 terms of the Transfer Contract; ii) identify and describe any material changes in the
3 charity's qualifications categorized in Section IV.A.2, above which occurred since it
4 first provided them to the Receiver; and iii) identify and describe any material deviations
5 by the charity from the plan, budget, or other representation it made to the Receiver
6 relating to its proposed operation of a Hope Supply Warehouse-type program. The
7 Receiver may seek additional information from each Approved Qualified Charity about
8 any such report or otherwise related to the Approved Qualified Charity's budget, its
9 operation of the Hope Supply Warehouse-type program, or its compliance with the
10 Transfer Contract.

11 H. Breach of Contract for Transfer:

12 In the event that any Approved Qualified Charity breaches the terms of the
13 Transfer Contract or otherwise violates the provisions of Section IV, above, the Receiver
14 shall have the standing and authority to pursue the Approved Qualified Charity for
15 breach of contract, damages, attorney's fees, and costs.

16 **V. COOPERATION**

17 IT IS FURTHER ORDERED that:

18 A. BCS, its representatives, agents, officers, directors, employees, managers,
19 members or any other persons with possession, custody, or control of property or records
20 relating to BCS, must cooperate fully with the Receiver and take such other steps as the
21 Receiver may require to transfer to the Receiver, or to his or her designated trust,
22 possession and legal and equitable title to all assets of BCS within five days of request
23 by the Receiver, including executing any documents, procuring the signature of any
24 person or entity under their control, providing access to the property of BCS and any
25 necessary information, and turning over any property of BCS.

26 B. In the event that any person fails to deliver or transfer any asset or
27 document, or otherwise fails to comply with any provision of this Order, the Receiver
28 may file ex parte an affidavit of non-compliance regarding the failure. Upon filing of

1 the affidavit, the Court may authorize, without additional process or demand, writs of
2 possession or sequestration or other equitable writs requested by the Receiver. The writs
3 shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of
4 any county, or any other federal, state, or local law enforcement officer, to seize the
5 asset, document, or other item covered by this Section and to deliver it to the Receiver.

6 **VI. PROVISION OF INFORMATION TO RECEIVER**

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

9 A. A list of all assets and property, including accounts, of BCS that are held
10 in any name other than the name of BCS, or by any person or entity other than BCS; and

11 B. A list of all agents, employees, officers, directors, managers, members,
12 employees, agents, or those persons in active concert and participation with BCS, who
13 have been associated with or done business with BCS.

14
15 **VII. PROHIBITION ON INTERFERENCE WITH THE RECEIVER**

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

21 A. Interfering with the Receiver's efforts to manage, or take custody, control,
22 or possession of, the assets or documents subject to this receivership;

23 B. Transacting any of the business of BCS;

24 C. Transferring, receiving, altering, selling, encumbering, pledging,
25 assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the
26 possession or custody of, or in which an interest is held or claimed by, BCS or the
27 Receiver; and
28

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

3 **VIII. STAY OF ACTIONS AGAINST BCS**

4 IT IS FURTHER ORDERED that, except by leave of this Court, during pendency
5 of the receivership ordered herein, BCS, its representatives, and other persons seeking to
6 establish or enforce any claim, right, or interest against or on behalf of BCS, and all
7 others acting for or on behalf of such persons, are hereby enjoined from taking action
8 that would interfere with the exclusive jurisdiction of this Court over the assets or
9 documents of BCS, including:

10 A. Petitioning, or assisting in the filing of a petition, that would cause BCS to
11 be placed in bankruptcy;

12 B. Commencing, prosecuting, or continuing a judicial, administrative, or
13 other action or proceeding against BCS, including the issuance or employment of
14 process against BCS, except that such actions may be commenced if necessary to toll
15 any applicable statute of limitations;

16 C. Filing or enforcing any lien on any asset of BCS, taking or attempting to
17 take possession, custody, or control of any asset of BCS, or attempting to foreclose,
18 forfeit, alter, or terminate any interest in any asset of BCS, whether such acts are part of
19 a judicial proceeding, are acts of self-help, or otherwise; and

20 D. Initiating any other process or proceeding that would interfere with the
21 Receiver's efforts to manage or take custody, control, or possession of the assets or
22 documents subject to this receivership.

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

1 **IX. RECEIVER'S BOND**

2 IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this
3 Court a bond in the sum of \$25,000 with sureties to be approved by the Court,
4 conditioned that the Receiver will well and truly perform the duties of the office and
5 abide by and perform all acts the Court directs. 28 U.S.C. § 754.

6 **X. COMPENSATION OF RECEIVER**

7 IT IS FURTHER ORDERED that the Receiver and all personnel hired by the
8 Receiver as herein authorized, including counsel to the Receiver and accountants, are
9 entitled to reasonable compensation for the performance of duties undertaken pursuant
10 to this Order and for the cost of actual out-of-pocket expenses incurred. The Receiver's
11 compensation and the compensation of any persons hired by the Receiver are to be paid
12 solely from the assets of BCS and any proceeds from the liquidation of BCS, and such
13 payments shall have priority over all other distributions except for any transfer fees,
14 recording fees, or other payments owed through the transfer of the assets of BCS. The
15 Receiver shall file with the Court and serve on the parties a request for the payment of
16 reasonable compensation at the time of the filing of periodic reports and no less than
17 every 60 days. The Receiver shall not increase the fees or rates used as the basis for
18 such fee applications without prior approval of Plaintiffs and the Court. BCS shall have
19 no right to object to the Receiver's fees or compensation. Absent a violation of this
20 Order that causes the Receiver to incur fees or expenses, BCS shall not be liable for the
21 Receiver's fees or expenses.

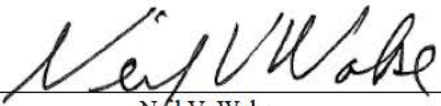
22 **XI. RECEIVER REPORTS**

23 IT IS FURTHER ORDERED that the Receiver shall periodically file with the
24 Court, no less than every 60 days, a Receivership Report, under oath, accurately
25 identifying any and all revenues received and expenditures made, including adequately
26 detailed information concerning income, expenses, payables, and receivables. These
27 periodic filings shall be served by the Receiver on Plaintiffs and BCS.
28

1 **XII. TERMINATION OF RECEIVERSHIP**

2 IT IS FURTHER ORDERED that, upon the final transfer of all funds to the
3 STCO Fund and the dissolution of BCS, the duties of the Receiver shall terminate. The
4 Receiver shall file a final application for fees, complete liquidation, and terminate his or
5 her service within 360 days of the entry of this Order, unless good cause is shown to
6 extend the receivership beyond 360 days. At the termination of the Receiver's duties,
7 the Receiver shall transfer any unliquidated assets of BCS to the STCO Fund described
8 in Section VII.D of the Permanent Injunction.

9 Dated this 28th day of May, 2015.

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12 _____
13 Neil V. Wake
14 United States District Judge
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