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CV-18-2221-PHX-SPL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

SEALED

Federal Trade Commission,

Plaintiff,

vs.

Hite Media Group, LLC, a Michigan limited liability
company, also d/b/a Premium Grants and
PremiumGrants.com;

Premium Business Solutions, LLC, an Arizona limited
liability company, also d/b/a Premium Services, Premium
Grants, and PremiumGrants.com;

Premium Domain Services, LLC, an Arizona limited
liability company, also d/b/a Premium Services, Premium
Grants and PremiumGrants.com;

2 Unique, LLC, an Arizona limited liability company; also
d/b/a Unique Services, Unique Grants, UniqueGrants.com
and Grant Support;

Amazing App, LLC, an Arizona limited liability company;

Michael Ford Hilliard, individually and as the owner and
manager of Amazing App, LLC, and as a *de facto* manager
and a beneficial owner of Hite Media Group, LLC,

Filed Under Seal

Emergency Motion

Case No.

PLAINTIFFS'
MEMORANDUM OF
LAW IN SUPPORT
OF MOTION FOR A
TEMPORARY
RESTRAINING
ORDER AND
OTHER EQUITABLE
RELIEF

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1 Premium Business Solutions, LLC, Premium Domain
2 Services, LLC, and 2 Unique, LLC;
3 **Michael De Rosa**, individually and as a *de facto* manager
4 of Hite Media Group, LLC, Premium Business Solutions,
5 LLC, Premium Domain Services, LLC, and 2 Unique, LLC;
6 **Shawn Stumbo**, individually and as an agent, owner, and
7 manager of Premium Domain Services, LLC;
8 **Tiffany Hoffman**, individually and as an member, officer,
9 agent, and owner of 2 Unique, LLC;
10 **Jeremy Silvers**, individually and as an owner and manager
11 of Premium Business Solutions, LLC.

12 Defendants.

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I. INTRODUCTION

1
2 Defendants market bogus grant services by deceiving consumers across the
3 country – many of whom are elderly, disabled, and/or on a fixed income – into believing
4 the consumers will receive tens of thousands of dollars in free grant money if they pay
5 Defendants upfront fees. Defendants falsely tell consumers that they can use the
6 purported grant money on “whatever they want,” including personal expenses, such as
7 to repay credit card and other debt, make home improvements and repairs, pay medical
8 bills, and purchase automobiles. Defendants’ deceptive conduct violates Section 5(a) of
9 the Federal Trade Commission (“FTC”) Act, 15 U.S.C. § 45(a), the Telemarketing and
10 Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101 *et seq.*, and the
11 Telemarketing Sales Rule (“TSR”), 16 CFR Part 310.

12 The FTC respectfully requests that the Court bring Defendants’ fraudulent scheme
13 to an immediate halt.¹ Many victims have lost thousands of dollars, and Defendants
14 continue to injure additional consumers on a daily basis. The estimated consumer injury
15 that Defendants have already caused totals at least \$3 million.

16 To protect consumers and preserve assets for consumer redress to Defendants’
17 many victims, the FTC seeks an *ex parte* temporary restraining order (“TRO”) that
18 enjoins Defendants’ unlawful conduct, freezes their assets, appoints a temporary receiver
19 over the Corporate Defendants, permits the temporary receiver and FTC staff immediate
20 access to Defendants’ business premises and records, requires Defendants to disclose
21 their assets, and allows for expedited discovery. The FTC also requests that the Court
22 order Defendants to show cause why a preliminary injunction should not issue against
23 them. This type of *ex parte* relief has been granted in numerous instances in this Circuit,
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27 ¹ The FTC submits three volumes of exhibits, including 12 consumer declarations, in
28 support of this Motion. References to exhibits appear as “PX [number].” Declarations
are cited as “PX [number][name].”

1 including in this District. Indeed, a court in this district recently granted such relief
2 against a nearly identical fraudulent grant telemarketing scam.²

3 II. THE DEFENDANTS

4 The operators of the fraudulent scheme are Defendants Michael Ford Hilliard
5 (“Hilliard”), Michael De Rosa (“De Rosa”), Shawn Stumbo (“Stumbo”), Tiffany Hoffman
6 (“Hoffman”), and Jeremy Silvers (“Silvers”) (collectively the “Individual Defendants”).
7 Since 2014, they have executed the grant telemarketing scheme through at least five
8 closely-held entities located in Arizona. Several of the Individual Defendants are
9 scofflaws having owned and/or operated companies that were shut down or sent cease
10 and desist demands by a state attorney generals for virtually the same conduct at issue
11 here.³ Moreover, Defendants’ current scam is nearly identical to that used by the
12 defendants in *FTC v. Blue Saguaro Marketing, LLC*.⁴

13 To continue the scam, avoid detection and mitigate the impact of negative reviews,
14 Defendants have often created new companies or business names after an existing one
15 generated significant consumer complaints, lost a merchant account, or was subject to an
16 inquiry or sent cease and desist demands from state attorney generals’ offices. The most
17 recent d/b/as include Unique Services and Unique Grants.⁵

18
19
20 ² See, *FTC v. Blue Saguaro Marketing, LLC, et al.*, CV-16-03406 (D. Ariz. Oct. 7,
21 2016)(Logan, J.); see also, *FTC v. Advertising Strategies, LLC, et al.*, CV-16-03353(D.
22 Ariz. Oct. 4, 2016) (Humetewa, J.); *FTC v. Money Now Funding, LLC*, No. CV-13-01583
23 (D. Ariz. Aug. 5, 2013); *FTC v. American Business Builders, LLC et al.*, No. CV-12-2368
24 (D. Ariz. Nov. 6, 2012); *FTC v. North Am. Mktg. and Assoc., LLC, et al.*, No. CV-12-914
25 (D. Ariz. May 2, 2012).

26 ³ De Rosa executed an Assurance of Discontinuance with the State of Arizona on behalf
27 of himself and his company Advanced Social Media, LLC that sold grant services like
28 the present Defendants. PX20 Jones ¶ 46. In August 2016, the North Dakota Attorney
General’s Office lodged a Cease and Desist Order against PBS and Silvers that was also
related to Defendants’ grant scheme. PX20 Jones ¶ 48.

⁴ Both were grant schemes that promised funds for personal expenses, and both used
workbooks and “grant training.” PX21 Shiller ¶ 47. Defendants have even hired ex
employees of the *Blue Saguaro Marketing* defendants. PX20 Jones ¶ 50.

⁵ PX20 Jones ¶ 5; PX21 Shiller ¶ ; and PX12 McDonald ¶ 3.

1 **A. The Corporate Defendants**

2 **Hite Media Group, LLC** (“Hite Media”), also doing business as Premium Grants
 3 and PremiumGrants.com, is a Michigan limited liability company with mailing addresses
 4 at 1887 Holton Rd STE D174, Muskegon, MI 49445 and 6040 E Main St, #127, Mesa,
 5 AZ 85205.⁶ Defendant Hilliard is a manager and a beneficial owner of Hite Media. In
 6 February 2017, the Better Business Bureau (“BBB”) issued a Consumer Alert against
 7 Hite Media, notifying consumers that Hite Media had left “a trail of dissatisfied grant
 8 seekers who report paying thousands of dollars for information on how to qualify for
 9 grants, but don't receive any grants as a result of a book and some phone training supplied
 10 by the company.”⁷ The BBB has given Hite Media a grade of “F.”⁸

11 **Premium Business Solutions, LLC** (“PBS”), also doing business as Premium
 12 Services, Premium Grants and PremiumGrants.com, is an Arizona limited liability
 13 company with mailing addresses at 1616 E Main Street, #210, Mesa, AZ 85203 and 625
 14 W Southern Ave, Suite E, Mesa, AZ 85210.⁹ In June 2016, PBS had at least one
 15 merchant account closed by a payment processor due to high chargebacks.¹⁰ Premium
 16 Grant grant workbooks received by consumers request that consumers certify that they
 17 have completed the Premium Business Solutions Training Program.¹¹ In August 2016,
 18 the North Dakota Attorney General’s Office lodged a Cease and Desist Order against
 19 PBS and Jeremy Silvers, alleging, among others, that PBS made false “promises to
 20

21 ⁶ PX20 Jones ¶ 41, see also PX29.

22 ⁷ PX16 Glenn ¶ 10.

23 ⁸ PX16 Glenn ¶ 12.

24 ⁹ PX20 Jones ¶¶ 35(e) and 41; see also PX30 and PX15 J. Brown ¶ 8.

25 ¹⁰ PX21 Shiller ¶ 49 - A chargeback occurs when a consumer dispute a charge on their
 26 credit card, which might result in a reversal of the charge. The credit card associations
 27 monitor chargeback rates, and merchants with high chargeback rates may be put in a
 28 monitoring program, or even have their merchant account terminated. Under Visa rules,
 a chargeback rate of greater than 1% will put a merchant into the Visa Chargeback
 Monitoring Program. Defendants had more than 10% chargeback rate. See PX20 Jones
 ¶ 34.

¹¹ PX21 Shiller ¶ 25.

1 consumers regarding expected grants.”¹² The BBB has given PBS a grade of “F.”¹³
 2 Silvers is the manager, member and owner of record of PBS.¹⁴ Based on payments PBS
 3 made for Hilliard’s benefit (directly and indirectly), Hilliard appears to be a beneficial
 4 owner of PBS.¹⁵

5 **Premium Domain Services, LLC** (“Premium Domain”), also doing business as
 6 Premium Services, Premium Grants and PremiumGrants.com, is an Arizona limited
 7 liability company. Premium Domain has a mailing address of 6040 E Main St. #127,
 8 Mesa, AZ 85205.¹⁶ Premium Domain has at least one website,
 9 premiumdomainservices.us.¹⁷ Defendant Shawn Stumbo is a manager and owner of
 10 Premium Domain.¹⁸ The BBB has given Premium Domain a grade of “F.”¹⁹ Defendant
 11 Silvers is listed as the contact for premiumdomainservices.us.²⁰

12 **2 Unique, LLC** (“2 Unique”), also doing business as Unique Services, Unique
 13 Grants, UniqueGrants.com and Grant Support, is an Arizona limited liability company
 14 with a mailing address of 2942 N. 24th Street, Suite 114-566, Phoenix, AZ 85016.²¹ In
 15 December 2017, 2 Unique had at least one merchant account closed by a payment
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20 ¹² PX20 Jones ¶ 46.

21 ¹³ PX15 J. Brown ¶ 10.

22 ¹⁴ PX20 Jones ¶ 46.

23 ¹⁵ PX24 Van Wazer ¶¶ 12-14.

24 ¹⁶ PX20 Jones at 5. Address used on merchant account application. **PX 44 at 14-24.**

25 ¹⁷ PX20 Jones at 6. See also **PX 44 at 28-29.** The website is about web services, not
 grants. PX20 Jones ¶ 43.

26 ¹⁸ PX20 Jones at 5 and ¶ 41.

27 ¹⁹ PX15 J. Brown ¶ 7.

28 ²⁰ PX20 Jones ¶ 45.

²¹ PX20 Jones ¶ 40(b); see also PX54 at 3.

1 processor due to high chargebacks.²² 2 Unique has at least one website, 2uniquellc.net.²³

2 Defendant Tiffany Hoffman is a member, officer, agent, and owner of 2 Unique.²⁴

3 **Amazing App, LLC** (“Amazing App”) is an Arizona limited liability company
4 with a registered address at 1616 E. Main Street, #210, Mesa, AZ 85203. Amazing App
5 is currently operating with the rest of the enterprise at 14040 N. Cave Creek Road, Suite
6 205, Phoenix, Arizona 85022.²⁵ Amazing App has also used 6040 E. Main St. #127,
7 Mesa, AZ 85205 as a contact address and has operated out of 2720 E. Thomas Road,
8 C150, Phoenix, AZ 85016. Defendant Hilliard is the owner and manager of Amazing
9 App.²⁶ Amazing App has received more than \$500,000 from PBS and 2 Unique and
10 more than \$800,000 from credit card processors.²⁷

11 Defendants appear to be currently operating out of an office at 14040 N. Cave
12 Creek Road, Suite 205, Phoenix, Arizona 85022.²⁸ The Corporate Defendants operate as
13 a common enterprise;²⁹ among other things they share control/ownership, have common
14 employees, marketing materials and, fax numbers, and consumers who initially
15 understood that they were doing business with one of the Corporate Defendants were sent
16 invoices from, or instructed to send their completed grant workbooks to, another member

17 ²² PX20 Jones at 7; *see also* PX 44 at 51-52.

18 ²³ PX20 Jones at 7; *see also* PX 44 at 37-48. The website does not mention grants.
19 PX20 Jones ¶ 43.

20 ²⁴ PX20 Jones ¶ 41.

21 ²⁵ PX17 Bruha ¶ 13.

22 ²⁶ PX20 Jones ¶ 41.

23 ²⁷ PX24 Van Wazer ¶¶ 11 and 15.

24 ²⁸ PX17 Bruha ¶ 13.

25 ²⁹ In determining whether a common enterprise exists, “[t]he Court evaluates the pattern
26 and frame-work of the whole enterprise.” *FTC v. Grant Connect, LLC*, 827 F. Supp. 2d
27 1199, 1216 (D. Nev. 2011). Courts consider non-exclusive factors such as whether the
28 companies were under common ownership and control; whether they pooled resources
and staff; whether they shared marketing and phone numbers; and whether they jointly
participated in a common venture in which they benefited from a shared business scheme.
Id.; *see also FTC v. Network Servs. Depot, Inc.*, 617 F.3d 1127, 1142-43 (9th Cir. 2010);
FTC v. AMG Servs., No. 2:12-cv-00536, 2016 U.S. Dist. LEXIS 44625, 11-12 (D. Nev.
Mar. 31, 2016). “[C]ommon enterprise is not an alter ego analysis. The entities formally
may be separate corporations, but operate as a common enterprise.” *Id.* at 1218.

1 of the common enterprise.³⁰ The Corporate Defendants have intermingled their funds³¹
 2 and the Individual Defendants use the Corporate Defendants for one common purpose:
 3 executing the scam at issue here.

4 **A. The Individual Defendants**

5 The five Individual Defendants are the officers and owners of the Corporate
 6 Defendants. They have authority to control the Corporate Defendants, manage their bank
 7 accounts, and sign documents on their behalf.

8 **Michael Ford Hilliard**, who often goes by Michael Ford,³² is the owner and
 9 manager of Amazing App and is the manager or *de facto* manager of several of the
 10 entities that execute the scheme as a common enterprise. Hilliard registered the trade
 11 name “Hite Media Group” under his Arizona company, Advertising for Life, LLC.³³ He
 12 is a signatory on bank accounts titled in the name Amazing App³⁴ and has executed rental
 13 agreements on behalf of Amazing App.³⁵ He changed depository accounts for a merchant
 14 account in the name of Hite Media,³⁶ and what appears to be Hilliard’s email address
 15 (mh@hite.ws) is listed as Hite Media’s email address for downloading telephone
 16 numbers on the FTC’s Do Not Call Registry.³⁷ Hilliard also corresponded with the BBB
 17

18 ³⁰ PX21 Shiller ¶ 54.

19 ³¹ PX24 Van Wazer ¶¶ 8-10. For example, 2 Unique paid the rent for space leased in
 20 the name of Amazing App and checks made out to various Defendants and DBAs,
 21 including 2 Unique, Premium Domain Services, and Premium Grants were deposited into
 a PBS bank account.

22 ³² PX20 Jones ¶ 35(b) and PX65 at 1-2. The same email address is used in both: (1)
 23 “Michael Ford’s” communication with a telecommunications provider and (2) Hilliard’s
 email to the *Blue Saguaro Marketing* scamsters.

24 ³³ PX16 Glenn ¶ 9.

25 ³⁴ PX20 Jones ¶ 27(b).

26 ³⁵ PX17 Bruha ¶ 11.

27 ³⁶ PX20 Jones at 5. (The EVO file contained a fax transmission dated November 26,
 28 2014, from Michael Ford to Vision Payment Solutions Merchant Account Support. The
 file contained a document to Vision Payment Solutions with title “CHECKING
 ACCOUNT CHANGE FORM.”)

1 regarding complaints about Hite Media.³⁸ His email address is a point of contact for Hite
 2 Media's toll free telephone numbers.³⁹ Hilliard has signed lease agreements for the
 3 offices used by the Corporate Defendants, and a cell number identified as Hilliard's was
 4 listed as receiving a call, initiating a call and/or transferring a call from a telephone
 5 number used by the scheme 66 times.⁴⁰

6 Hilliard participates in the management of 2 Unique. He has authority to make
 7 decisions regarding 2 Unique's mail forwarding service,⁴¹ and obtained the websites that
 8 the company has used, premiumdomainservices.us, 2uniqueinc.net, uniquegrants.com,
 9 and uniqueservicesllc.com.⁴² Bank records demonstrate that the lion's share of
 10 Defendants' revenues have been transferred to Hilliard or his company, Amazing App.⁴³
 11 Additionally, funds held in bank accounts in the names of PBS and Hite Media have been
 12 used for his personal benefit.⁴⁴ Hilliard has had multiple run ins with the law relating to
 13 fraud⁴⁵ and apparently purchased grant leads from the fraudulent grant telemarketers
 14 shutdown by the FTC's 2016 *Blue Saguaro Marketing, LLC* action.⁴⁶

15 **Michael De Rosa**, who often goes by "Bruce James," is a *de facto* manager of
 16 PBS, Premium Domains, and 2 Unique. De Rosa has authority to make decisions
 17
 18

19 ³⁷ PX21 Shiller ¶ 51.

20 ³⁸ PX16 Glenn ¶ 7.

21 ³⁹ PX20 Jones ¶ 35(b).

22 ⁴⁰ PX20 Jones ¶ 36.

23 ⁴¹ PX20 Jones ¶ 40(a).

24 ⁴² PX20 Jones ¶ 39.

25 ⁴³ PX24 Van Wazer ¶¶ 10-12.

26 ⁴⁴ PX24 Van Wazer ¶¶ 13-14. For example, Hite Media paid Hilliard's family-related
 27 legal fees.

28 ⁴⁵ PX20 Jones ¶53. Hilliard has been arrested multiple times for crimes related to fraud,
 including arrests for criminal misrepresentation and possession of a forgery device. It
 appears that he plead to lesser offenses.

⁴⁶ PX20 Jones ¶50a; PX65 at 1-2.

1 regarding Unique's mail forwarding service.⁴⁷ He has received paychecks from 2
2 Unique and Amazing App totaling more than \$71,000.⁴⁸

3 In 2016, he executed an Assurance of Discontinuance with the State of Arizona on
4 behalf of himself and his company Advanced Social Media, LLC ("ASM").⁴⁹ Arizona
5 alleged, among others, that ASM deceptively telemarketed grant services to consumers.⁵⁰
6 The Assurance of Discountenance prohibits De Rosa from selling "services related to
7 grant funding" and directed De Rosa to dissolve ASM and make a \$3000 payment to
8 Arizona.⁵¹ De Rosa's current conduct appears to violate his Assurance of Discontinuance
9 with Arizona.

10 **Shawn Stumbo** is a manager and owner of Premium Domain. Stumbo has
11 signatory authority over bank accounts titled in the name of Premium Domain and has set
12 up merchant accounts in the name of Premium Domain and Premium Domain d/b/a
13 Premium Services.⁵² Stumbo has communicated with a payment processor about
14 chargeback issues related to the scheme.⁵³ He is currently incarcerated in Arizona on
15 drug related charges.⁵⁴ When booked, Stumbo identified his employer as "Premium
16 Domain Services" and his occupation as "merchant processor."⁵⁵ Bank records indicate
17 that, after Stumbo obtained the merchant account for the scheme, he received payments
18 on a regular basis from Hilliard and his company Amazing App.⁵⁶

19
20 ⁴⁷ PX20 Jones ¶ 41.

21 ⁴⁸ PX24 Van Wazer ¶ 11.

22 ⁴⁹ PX20 Jones ¶ 46. Defendants Hoffman and Hilliard worked with De Rosa at ASM.
23 PX21 Shiller ¶¶ 30-34.

24 ⁵⁰ PX20 Jones ¶ 46.

25 ⁵¹ PX20 Jones ¶ 46; PX22 Van Wazer ¶ 11.

26 ⁵² PX20 Jones at 5 and PX44 at 14-24.

27 ⁵³ PX20 Jones ¶ (f) at 6.

28 ⁵⁴ PX21 Shiller ¶ 52.

⁵⁵ PX17 Bruha ¶ 8.

⁵⁶ PX24 Van Wazer ¶ 16.

1 **Tiffany Hoffman** is a member, officer, agent, and owner of 2 Unique.⁵⁷ Hoffman
2 has signatory authority over bank accounts titled in the name of 2 Unique and has
3 executed documents to open merchant accounts and maildrops in the name of 2 Unique.⁵⁸
4 She obtained and paid for the toll free phone numbers used by 2 Unique.⁵⁹ She
5 communicated with a payment processor about chargebacks associated with the scam.⁶⁰
6 Hoffman previously worked at ASM, a grant telemarketing company shutdown by
7 Arizona in 2016. According to testimony by De Rosa, at ASM, Hoffman was a
8 supervisor, worked on grant applications, handled consumer complaints, and dealt with
9 credit card chargebacks.⁶¹

10 **Jeremy Silvers** is a manager, member and owner of PBS.⁶² Silvers has signatory
11 authority over bank accounts titled in the name of PBS and has used that account to
12 funnel ill-gotten funds to other members of the scheme.⁶³ He has opened maildrops in
13 the name of PBS.⁶⁴ Silvers has executed documents to open merchant accounts in the
14 name of PBS⁶⁵ and received email communications from payment processors regarding
15 the termination of PBS merchant account due to high levels of chargebacks.⁶⁶ Silvers is
16 listed as the contact for Premium Domain's website.⁶⁷ He was named in the Cease and
17 Desist Order lodged by the North Dakota Attorney General's Office against PBS and
18

19 ⁵⁷PX20 Jones at 7 and ¶¶ 40(a) and 41.

20 ⁵⁸ *Id.*

21 ⁵⁹ PX62 at 6.

22 ⁶⁰ PX20 Jones at 7.

23 ⁶¹ PX21 Shiller ¶¶ 30-32.

24 ⁶² PX20 Jones at 7 and ¶ 41.

25 ⁶³ PX20 Jones ¶ 30 and PX24 Van Wazer ¶12.

26 ⁶⁴ PX20 Jones ¶ 40(c).

27 ⁶⁵ PX20 Jones at 7.

28 ⁶⁶ PX21 Shiller ¶ 49 .

⁶⁷ PX20 Jones ¶ 45.

1 corresponded with the North Dakota Attorney General's Office about that matter.⁶⁸

2 Silvers has had multiple runs with the law, including past charges of burglary and
3 forgery.⁶⁹

4 III. Defendants' Business Practices

5 A. Defendants' Deceptive Sales Pitch

6 Defendants' telemarketers call consumers⁷⁰ -- including consumers whom are
7 seniors,⁷¹ disabled,⁷² veterans,⁷³ and/or on a fixed income⁷⁴ -- and represent that
8 consumers are likely to receive, through Defendants' services, tens of thousands of
9 dollars in grants⁷⁵ from government, corporate, or private grantors.⁷⁶ They further
10 represent that consumer can use the grant money for personal expenses.⁷⁷ Defendants tell
11 consumers that thousands of multi-billion dollar corporations, including John Deere and
12 Sony, fund millions of dollars in grants, which the companies use as tax write-offs, to
13 individuals like the consumers.⁷⁸ Defendants have referred to such grants as "stimulus

14 _____
15 ⁶⁸ PX20 Jones ¶ 48.

16 ⁶⁹ PX20 Jones ¶ 52.

17 ⁷⁰ Defendants operate websites, such as PremiumGrants.com and UniqueGrants.com,
18 which tout the availability of grant money for individuals, including grants specifically
19 targeted for women, seniors, and minorities. PX20 Jones ¶¶ 38-39. Defendants also call
20 consumers and represent that they are with "PremiumGrants.com" (see PX7 Rizzuto ¶3),
21 use the URL PremiumGrants.com in their workbooks (PX2 Brown ¶8) and use their
22 logos on their materials. PX21 Shiller ¶ 26.

23 ⁷¹ PX1 Williams ¶ 1, PX2 Brown ¶ 3, PX3 Christiani ¶ 1, PX4 Mott ¶ 1, PX5 Stephens
24 ¶1, PX9 Howard ¶ 1, PX10 Geiger ¶ 1, PX11 Perryman ¶ 1, and PX12 McDonald ¶ 1.

25 ⁷² PX4 Mott ¶ 1 and PX7 Rizzuto ¶ 2.

26 ⁷³ PX1 Williams ¶ 2.

27 ⁷⁴ PX3 Christiani ¶ 2, PX9 Howard ¶ 2, PX10 Geiger ¶ 2, PX11 Perryman ¶ 1.

28 ⁷⁵ PX1 Williams ¶ 4, PX2 Brown ¶ 5, PX3 Christiani ¶ 4, PX4 Mott ¶ 4, PX5 Stephens
¶4, PX6 Woods ¶ 13, PX7 Rizzuto ¶ 3, PX8 Amick ¶ 7, PX9 Howard ¶ 4, PX10 Geiger ¶
4, PX11 Perryman ¶ 5, and PX12 McDonald ¶ 4, PX20 Jones ¶¶ 6 and 13, PX21 Shiller ¶
10.

⁷⁶ PX1 Williams ¶ 4, PX2 Brown ¶ 5, PX3 Christiani ¶ 4, PX4 Mott ¶ 4, PX5 Stephens ¶4,
PX6 Woods ¶ 4, PX7 Rizzuto ¶ 3, PX8 Amick ¶ 4, PX9 Howard ¶ 4, PX10 Geiger ¶ 41,
PX11 Perryman ¶ 5, and PX12 McDonald ¶ 4, and PX21 Shiller ¶ 9.

⁷⁷ PX1 Williams ¶ 4, PX2 Brown ¶ 5, PX3 Christiani ¶ 4, PX5 Stephens ¶4, PX6 Woods ¶
11, PX7 Rizzuto ¶ 4, PX8 Amick ¶ 6, PX9 Howard ¶ 5, PX10 Geiger ¶ 6, PX11 Perryman
¶ 8, and PX12 McDonald ¶ 3, PX21 Shiller ¶ 10.

⁷⁸ PX5 Stephens ¶4, PX7 Rizzuto ¶ 3, PX8 Amick ¶ 7, PX20 Jones ¶ 6, PX21 Shiller ¶ 9.

1 grants,” “single parent assistance grants,” and “senior grants.”⁷⁹

2 Purportedly to “determine” the amount of grant money for which the consumer is
3 eligible, Defendants ask consumers for information regarding their income, employment,
4 age, veteran status, home value and equity, savings and retirement funds, debt, drivers’
5 license and credit and debit card numbers.⁸⁰ After consumers provide that information,
6 Defendants often state that the consumers are eligible for grants ranging from \$10,000 to
7 \$100,000 dollars.⁸¹ Defendants routinely tell consumers that they can spend the grant
8 money on almost “anything you choose,” including buying a car, paying off debt, paying
9 medical bills, and paying for home repairs and improvements.⁸²

10 Defendants send consumers a grant workbook and schedule four to six “training
11 sessions” between the consumer and a “grant specialist” to purportedly help the
12 consumers complete a grant “workbook.”⁸³ As part of the sales pitch, Defendants
13 represent to consumers that they will use the information in the workbook to draft and
14 submit grant applications on behalf of the consumers, obtaining tens of thousands of
15 dollars in grant money for them.⁸⁴

16 In calls with consumers and FTC investigators posing as consumers, Defendants
17 have either (1) guaranteed that consumers using Defendants’ services will receive tens of
18 thousands of dollars in grants,⁸⁵ (2) told consumers that the grant money was waiting for
19

20 _____
21 ⁷⁹ PX21 Shiller ¶ 9 (stimulus); PX20 Jones Attachment A at 10 (single parent assistance),
and PX10 Geiger ¶ 5 (senior grants).

22 ⁸⁰ PX21 Shiller ¶ 42 (Hite Media Script PX66).

23 ⁸¹ PX6 Woods ¶ 12 (\$10,000) and PX5 Stephens ¶ 8 (\$100,000).

24 ⁸² PX1 Williams ¶ 4, PX2 Brown ¶ 5, PX3 Christiani ¶ 4, PX5 Stephens ¶ 4, PX6 Woods ¶
11, PX7 Rizzuto ¶ 4, PX8 Amick ¶ 6, PX9 Howard ¶ 5, PX10 Geiger ¶ 6, PX11 Perryman
25 ¶ 8, and PX12 McDonald ¶ 3, PX21 Shiller ¶ 10.

26 ⁸³ PX1 Williams ¶ 11, PX2 Brown ¶ 5, PX3 Christiani ¶ 5, PX6 Woods ¶ 17, PX7 Rizzuto
¶ 9, PX8 Amick ¶ 11.

27 ⁸⁴ PX6 Woods ¶ 12, PX7 Rizzuto ¶ 9, PX8 Amick ¶ 11, PX10 Geiger ¶ 8.

28 ⁸⁵ PX1 Williams ¶ 12, PX2 Brown ¶ 7, PX5 Stephens ¶ 8, PX7 Rizzuto ¶ 7, PX9 Howard
¶ 8.

1 them or was a “sure thing,”⁸⁶ or (3) claimed that Defendants have a “very high” or 95-
 2 98% success rate in obtaining tens of thousands of dollars in grants for consumers to use
 3 for personal expenses, such as paying bills, home repair, etc.⁸⁷ Defendants often tell
 4 consumers that they would be unlikely to get the grant money without Defendants’ help.⁸⁸

5 Defendants tell consumers that they need to pay proposed Defendants’ fees, that
 6 range from \$295 to at least \$4995, upfront to obtain the tens of thousands of dollars in
 7 grant money.⁸⁹ They collect the fees via credit or debit card, check, or money order, and
 8 send consumers invoices via email.⁹⁰

9 Defendants’ invoices are not for grant services. Instead, the invoices state that the
 10 consumers have purchased “Social Business Training.”⁹¹ The invoices require consumers
 11 to sign a contract that states Defendants have a “no refund” policy before Defendants
 12 have provided any services and before consumers have received a grant.⁹²

13 **B. Training and The Upsell**

14 Within a few days of collecting their fees from consumers, Defendants mail
 15 consumers a grant package, including a “Welcome Letter” and the grant workbook.⁹³
 16 Defendants have used slightly different iterations of the grant workbook.⁹⁴ The

17 ⁸⁶ PX4 Mott ¶ 6 and PX6 Woods ¶¶ 10 and 14.

18 ⁸⁷ PX8 Amick ¶ 14, PX20 Jones ¶ 5, and PX21 Shiller ¶ 16.

19 ⁸⁸ For example, during a March 15, 2018 undercover call, Defendants told an FTC
 20 investigator that if she applied for grants she qualified for on her own, “the chances of
 you getting funded are less than 15 percent.” PX21 Shiller ¶ 11.

21 ⁸⁹ PX2 Brown ¶ 19 (\$4995) and PX6 Woods ¶ 12, PX7 Rizzuto ¶ 8, and PX11 Perryman
 ¶ 6 (\$295).

22 ⁹⁰ PX1 Williams ¶ 14, PX2 Brown ¶ 7, PX3 Christiani ¶ 10, PX4 Mott ¶ 7, PX6 Woods ¶
 23 16, PX10 Geiger ¶ 10, and PX11 Perryman ¶ 12.

24 ⁹¹ PX1 Williams ¶ 4, PX2 Brown ¶ 7, PX3 Christiani ¶ 10, PX5 Stephens ¶ 12, PX6
 Woods ¶ 16, PX7 Rizzuto ¶ 12, PX9 Howard ¶ 10, PX10 Geiger ¶ 10, PX11 Perryman ¶
 12, PX12 McDonald ¶ 8, and PX20 Jones ¶ 7.

25 ⁹² For example, see PX1 Williams Attachment B at 1, PX10 Geiger ¶ 16, and PX20 Jones
 26 Attachment B at 2.

27 ⁹³ PX1 Williams ¶ 14, PX4 Mott ¶ 9, PX5 Stephens ¶ 11, PX7 Rizzuto ¶ 16, PX8 Amick ¶
 17, and PX20 Jones ¶ 9(a).

28 ⁹⁴ PX22 Bauer ¶ 29.

1 workbook has sections, with titles such as, “Reasons for Funding”; “Statement of Need”;
 2 “Budget Assignment”; and “Plan of Action.”⁹⁵ It includes various assignments for
 3 consumers. For example, the Reason for Funding section directs consumers to “[l]ist any
 4 and all reasons you are interested in seeking funding...,” and the Session 1 (The Basics)
 5 assignment asks consumers to describe “What makes you unique from other
 6 applicants?”⁹⁶

7 Within a week or two of the consumer’s initial purchase, Defendants call to
 8 schedule the grant training sessions.⁹⁷ Often, during this follow up call, Defendants tell
 9 consumers that if they pay an additional fee, Defendants will either: (1) create an online
 10 profile for the consumers that will enable Defendants to obtain even more grant money
 11 for the consumers than Defendants promised in the initial sales call;⁹⁸ or (2) be able to
 12 speed up the grant process and obtain the consumer’s grant money faster.⁹⁹ Whether or
 13 not, the consumer purchases Defendants’ upsell, Defendants direct consumers to review
 14 the grant workbook and schedule training sessions between consumers and Defendants’
 15 “grant specialists.”¹⁰⁰

16 During the grant training sessions: (1) consumers review what they have written
 17 in the grant workbook with Defendants’ grant specialists;¹⁰¹ and (2) Defendants’ grant
 18
 19

20 ⁹⁵PX20 Jones Attachment B at 7.

21 ⁹⁶ PX20 Jones Attachment B at 8.

22 ⁹⁷ PX1 Williams ¶ 16, PX4 Mott ¶ 7, PX7 Rizzuto ¶ 9, PX8 Amick ¶ 11, PX10 Geiger ¶
 12, and PX20 Jones ¶¶ 8 and 12.

23 ⁹⁸ PX2 Brown ¶ 9, PX4 Mott ¶ 11, PX5 Stephens ¶ 8, PX6 Woods ¶ 13, PX9 Howard ¶
 24 14. Defendants claim that an online profile done by a software company would allow a
 grantor to type Defendants’ client’s name into the software, and a picture of the client
 would pop “up on their computer screen.” PX20 Jones ¶ 13.

25 ⁹⁹ Christiani ¶ 8, PX12 McDonald ¶ 18.

26 ¹⁰⁰ PX1 Williams ¶ 16, PX4 Mott ¶ 7, PX7 Rizzuto ¶ 9, PX8 Amick ¶ 11, PX10 Geiger ¶
 12, and PX20 Jones ¶¶ 8 and 12.

27 ¹⁰¹ PX1 Williams ¶¶ 17-19, PX6 Woods ¶¶ 17-19, PX7 Rizzuto ¶¶ 18-21, PX8 Amick ¶
 28 11, and PX9 Howard ¶ 19.

1 specialists reinforce the representations made to consumers in the initial sales pitch.¹⁰²
 2 Defendants' grant specialists direct consumers to mail them the completed grant
 3 workbook for the Defendants to use in drafting "grant proposals."¹⁰³ Defendants tell
 4 consumers it may take several months for Defendants to draft the grant proposal, send the
 5 proposal to the grantors, and obtain consumers grant money.¹⁰⁴

6 C. Defendants' Delaying Tactics and Use of Threats

7 Later, when consumers call to ask about the status of their grants, Defendants put
 8 them off, telling them to be patient.¹⁰⁵ Sometimes, Defendants claim that they need to
 9 send out more grant proposals.¹⁰⁶ Defendants also tell consumers that they will keep
 10 sending out grant proposals until the consumers get their grant funding.¹⁰⁷ Eventually,
 11 Defendants stop answering consumers' calls and do not respond to voicemails, emails, or
 12 letters from consumers¹⁰⁸ When consumers attempt to get their money back by
 13 contacting their credit card company and initiating a chargeback, Defendants have often
 14 threatened those consumers with possible collection actions if they do not reverse the
 15 chargeback.¹⁰⁹

16
 17
 18
 19 ¹⁰² PX1 Williams ¶ 19, PX2 Brown ¶ 13, PX3 Christiani ¶ 11, PX4 Mott ¶ 10, PX6
 20 Woods ¶ 19, and PX8 Amick ¶ 20.

21 ¹⁰³ PX1 Williams ¶ 21, PX2 Brown ¶ 14, PX3 Christiani ¶ 12, PX8 Amick ¶ 21, PX9
 22 Howard ¶ 21, and PX10 Geiger ¶ 19.

23 ¹⁰⁴ PX1 Williams ¶ 21, PX2 Brown ¶ 10, PX3 Christiani ¶ 8, PX6 Woods ¶ 14, PX7
 24 Rizzuto ¶ 24, PX8 Amick ¶ 14, PX9 Howard ¶ 50, and PX11 Perryman ¶ 18.

25 ¹⁰⁵ PX2 Brown ¶ 17, PX3 Christiani ¶ 14, PX7 Rizzuto ¶ 24, PX10 Geiger ¶ 20, and
 26 PX11 Perryman ¶ 19.

27 ¹⁰⁶ PX7 Rizzuto ¶ 24 and PX11 Perryman ¶ 19.

28 ¹⁰⁷ PX2 Brown ¶ 18.

¹⁰⁸ PX1 Williams ¶ 27, PX2 Brown ¶ 18, PX4 Mott ¶ 15, PX5 Stephens ¶ 15, PX6 Woods
 ¶ 27, PX7 Rizzuto ¶ 26, PX8 Amick ¶ 22, PX10 Geiger ¶¶ 22-23, and PX11 Perryman ¶
 20.

¹⁰⁹ PX12 McDonald ¶ 28.

D. Defendants's Representations about Grants are False and/or Unsubstantiated and Their Services are Bogus

Defendants representation that consumers who purchase and use Defendants' services are likely to receive grants worth thousands of dollars, which the consumers can use for personal expenses, is false and unsubstantiated. As demonstrated by the experiences of 32 consumers documented in consumers declarations and BBB complaints, consumers who pay Defendants' fees are not receiving such grants.¹¹⁰ Many of Defendants' victims are retired seniors,¹¹¹ some of whom are disabled or live on fixed incomes.¹¹² Consumers paid Defendants hundreds or even thousands of dollars, completed Defendants' training, and did not get grants.¹¹³ Defendants often prey on vulnerable consumers from who Defendants' fees represent a significant burden. Many of their victims live in homes in need of repair, without working air conditioning, or bad roofs.¹¹⁴ Defendants' took \$1495 from a retired woman who lives on food stamps, after promising her a grant of more than \$40,000.¹¹⁵ Leaving her in worse financial shape, Defendants would not answer her calls or letters.¹¹⁶

As explained by grant expert, David Bauer, the average consumer is unlikely to qualify for, let alone receive, tens of thousands of dollars in grant money to pay for personal expenses.¹¹⁷ Federal and state governments do not give grants to individuals for

¹¹⁰ PX21 Shiller ¶ 50.

¹¹¹ PX1 Williams ¶ 1, PX2 Brown ¶ 3, PX3 Christiani ¶ 1, PX4 Mott ¶ 1, PX5 Stephens ¶ 1, PX9 Howard ¶ 1, PX10 Geiger ¶ 1, PX11 Perryman ¶ 1, and PX12 McDonald ¶ 1.

¹¹² PX3 Christiani ¶ 2, PX9 Howard ¶ 2, PX10 Geiger ¶ 2, and PX11 Perryman ¶ 1.

¹¹³ PX21 Shiller ¶ 50. The FTC has identified only one consumer who obtained anything. That consumer, a disabled senior, paid Defendants \$1,700 after they told him that he was likely to receive, \$32,000 in grant money. He did not receive a grant. All he received for his money was a used wheel chair and a \$500 check from local charities, far less than the \$1,700 he paid Defendants. PX4 Mott ¶ 22.

¹¹⁴ Williams ¶ 31, PX2 Brown ¶ 19, PX4 Mott ¶ 22, PX5 Stephens ¶ 18, and PX10 Geiger ¶ 27.

¹¹⁵ PX10 Geiger ¶¶ 2 and 27.

¹¹⁶ PX10 Geiger ¶ 27.

¹¹⁷ PX22 Bauer ¶ 32.

1 personal financial expenses; and federal and state governments do not give grants to
 2 individuals solely on the basis of them being single mothers, veterans, disabled or having
 3 debt.¹¹⁸ Indeed, the federal government’s central website for grants, Grants.gov, states in
 4 a section dedicated to grant fraud that “Federal grants are usually awarded for specific
 5 programs, research or projects – most often to local governments, organizations,
 6 institutions and universities. Beware of any individual who promises a government
 7 award that can be spent on paying down tuition or credit card debt, or home electronics
 8 and décor.”¹¹⁹

9 Similarly, private grants are rarely, if ever (1) awarded for personal expenses; or
 10 (2) awarded to individuals solely on the basis of them being single mothers, veterans, or
 11 disabled or having debt.¹²⁰ Moreover, the private companies, such as John Deere and
 12 Sony, that Defendants represent to consumers as giving grants to individual, in fact, do
 13 not typically provide such grants.¹²¹

14 Furthermore, the training and services Defendants provide consumers are not
 15 likely to help consumers obtain grants for personal expenses.¹²² For example,
 16 Defendants’ grant workbooks: (1) ask individuals to list reasons for seeking a grant, such
 17 as home repairs, yet, grants are rarely, if ever provided to individuals for personal
 18 financial expenses;¹²³ and (2) fail to inform consumers of any of the Office of
 19 Management and Budget forms that are required to file for a federal grant.¹²⁴
 20 Additionally, according to Bauer, Defendants’ representation that grantors go online to
 21 review profiles of the personal needs of prospective grantees is unheard of in the world of
 22

23 ¹¹⁸ *Id.*

24 ¹¹⁹ PX22 Bauer ¶ 21.

25 ¹²⁰ PX22 Bauer ¶¶ 27-28.

26 ¹²¹ PX22 Bauer ¶ 37(d).

27 ¹²² PX22 Bauer ¶ 17.

28 ¹²³ PX22 Bauer ¶ 41.

¹²⁴ PX22 Bauer ¶ 42.

1 grants and a useless grant application strategy.¹²⁵

2 **E. Individual Defendants' Role in the Enterprise and Knowledge that the**
 3 **Representations about Grants are False and/or Unsubstantiated**

4 The Individual Defendants control and directly participate in the fraudulent
 5 scheme. They also know that the representations made by Defendants' telemarketers are
 6 false or unsubstantiated.

8 **HILLIARD**

9 Hilliard is an officer of Amazing App and a *de facto* manager and beneficial owner
 10 of the other Corporate Defendants.¹²⁶ Hilliard has managed the proceeds of the scam
 11 through bank accounts in the name of Amazing App.¹²⁷ Hilliard leased the office space in
 12 which the scheme has operated.¹²⁸ He has: (1) paid Defendants' employees;¹²⁹ (2) sent
 13 instructions to a payment processor regarding Hite Media Group's merchant account;¹³⁰
 14 and (3) corresponded with the BBB about consumer complaints filed against the
 15 company.¹³¹ Also, he has obtained mail drops in the name of Premium Domain Services
 16 and has authority to make decisions regarding 2 Unique's mail forwarding service.¹³²
 17 Furthermore Hilliard (through his alias, Michael Ford) obtained and paid for the toll free
 18
 19
 20

21 ¹²⁵ PX22 Bauer ¶ 34.

22 ¹²⁶ PX20 Jones ¶ 40(b) and PX24 Van Wazer ¶¶ 13-14. (PBS and Hite Media accounts
 23 used to pay Hilliard's bills, including personal legal bills.)

24 ¹²⁷ PX20 Jones ¶ 27(b) and PX24 Van Wazer ¶¶ 12, 15. (More than \$875,000 in
 25 consumer credit card payments were directly deposited into an Amazing App bank
 26 account.)

25 ¹²⁸ PX17 Bruha ¶ 11.

26 ¹²⁹ PX24 Van Wazer ¶ 7.

27 ¹³⁰ PX20 Jones ¶ 25(b).

27 ¹³¹ PX16 Glenn ¶ 7.

28 ¹³² PX20 Jones ¶ 40(a).

1 phone numbers used in the scheme,¹³³ and (again, as Michael Ford) is the corporate
2 contact for several of the schemes websites.¹³⁴

3 Hilliard also knows that Defendants' representations about grants are deceptive.
4 Hilliard has owned, operated and worked with at least three companies that had alerts
5 posted about them or were shutdown for running grant scams like the one here.

6 First, Hilliard as an original owner of ASM with DeRosa¹³⁵ knows that De Rosa
7 executed an Assurance of Discontinuance in with the State of Arizona that alleged that
8 ASM made deceptive statements involving consumers' eligibility for grants.¹³⁶

9 Second, Hilliard did businesss with the Phoenix grant scamsters shutdown by the
10 FTC's *Blue Saguaro Marketing, LLC* action in late 2016.¹³⁷ Defendants current scam
11 appears almost identical to that one,¹³⁸ and Defendants actually employ telemarketers
12 who worked for the Blue Saguaro Marketing defendants.¹³⁹ It is inconceivable that
13 Hilliard does not recognize the same misrepresentations as those made by the Blue
14 Saguaro Marketing defendants.

15 Third, Hilliard received notice that the BBB was planning on filing a Consumer
16 Alert against Hite Media because "seven of the eight complaints received at this BBB
17 allege that the consumer paid an up-front fee ranging from \$1200 to \$7500 in order to
18 receive a grant ranging from \$80,000 -\$85,000; none of the complainants received the
19 promised grant after paying the fee."¹⁴⁰ After Hilliard failed to respond to the Better
20 Business Bureau's calls and letter, the BBB issued a Consumer Alert notifying consumers
21 that Hite Media had left "a trail of dissatisfied grant seekers who report paying thousands
22

23 ¹³³ PX20 Jones ¶ 35(e).

24 ¹³⁴ PX20 Jones ¶ 39.

25 ¹³⁵ PX21 Shiller ¶ 39.

¹³⁶ PX20 Jones ¶ 46.

26 ¹³⁷ PX20 Jones ¶ 50(a).

¹³⁸ PX21 Shiller ¶ 47.

27 ¹³⁹ PX20 Jones ¶ 50.

28 ¹⁴⁰ PX16 Glenn ¶ 10.

1 of dollars for information on how to qualify for grants, but don't receive any grants as a
2 result of a book and some phone training supplied by the company.”¹⁴¹

3 Finally, Hilliard evidently expects at some time to be contacted by the police
4 regarding the legality of his business. In April, 2018, when Defendants unexpectedly
5 abandoned a business premises, Hilliard sent a text message to the landlord stating, in
6 part, “If a detective called looking for me please give me there [sic] information or pass
7 my information to them because my business operates ethically and legally.”¹⁴²

9 DE ROSA

10 De Rosa is a *de facto* manager of the Corporate Defendants, including 2 Unique.¹⁴³
11 DeRosa has the authority to make decisions regarding 2 Unique’s mail forwarding
12 service.¹⁴⁴

13 De Rosa knows that his previous company, ASM was shutdown for deceptively
14 telemarketing grant services to consumers.¹⁴⁵ When questioned under oath by the
15 Arizona Attorney General’s Office in the ASM matter, he admitted that there are no
16 grants available to pay individual credit card debt and that ASM had no substantiation
17 that any of their clients received any grants.¹⁴⁶ Moreover, like Hilliard, De Rosa did
18 business the *Blue Saguaro Marketing* scamsters.¹⁴⁷

19 STUMBO

20 Stumbo is an owner and officer of Premium Domain,¹⁴⁸ and personally opened and
21 managed the merchant accounts and depository accounts used in the grant scam.¹⁴⁹

22 ¹⁴¹ PX16 Glenn ¶ 12.

23 ¹⁴² PX17 Bruha ¶ 10.

24 ¹⁴³ PX20 Jones ¶ 41.

25 ¹⁴⁴ *Id.*

26 ¹⁴⁵ *See supra* Note 49.

27 ¹⁴⁶ PX21 Shiller ¶ 37.

28 ¹⁴⁷ PX20 Jones ¶ 50.

¹⁴⁸ PX20 Jones at 6 and ¶ 41.

1 Stumbo directed a payment processor to send processing proceeds directly to Amazing
 2 App's bank account.¹⁵⁰ Stumbo received regular payments from Hilliard and Amazing
 3 App.¹⁵¹

4 Stumbo knows that Defendants' sales practices generate large numbers of upset
 5 consumers. He received notifications from the payment processor for Premium Domain
 6 that its chargeback rate was much higher than what Visa and MasterCard allow.¹⁵²

7 HOFFMAN

8 Hoffman is the owner and officer of 2 Unique.¹⁵³ She (1) opened and managed the
 9 merchant accounts and depository accounts used in the grant scam;¹⁵⁴ (2) opened mail
 10 drops in the name of 2 Unique;¹⁵⁵ (3) funneled ill-gotten gains from 2 Unique to
 11 Hilliard's company;¹⁵⁶ and (4) paid Defendants' employees.¹⁵⁷

12 Like the others, Hoffman knows that Defendants' representations about grants are
 13 deceptive. Hoffman worked at ASM under De Rosa, as an assistant manager, and
 14 handled refund requests and chargebacks, and worked on grant proposals for ASM's
 15 consumers.¹⁵⁸ She must know that De Rosa executed an Assurance of Discontinuance in
 16 with the State of Arizona that alleged that ASM made deceptive statements involving
 17 consumers' eligibility for grants and that his current work violates the Assurance of
 18 Discontinuance. Hoffman has also received notices from payment processors that 2
 19
 20
 21

22 ¹⁴⁹ PX20 Jones at 6-7.

23 ¹⁵⁰ PX20 Jones ¶ 25(b).

24 ¹⁵¹ PX24 Van Wazer ¶ 16.

25 ¹⁵² PX20 Jones ¶ 25(f).

26 ¹⁵³ PX20 Jones ¶ 41.

27 ¹⁵⁴ PX20 Jones at 7.

28 ¹⁵⁵ PX20 Jones ¶¶ 40(a) and 41.

¹⁵⁶ PX24 Van Wazer ¶¶ 10-12.

¹⁵⁷ PX24 Van Wazer ¶ 7.

¹⁵⁸ PX21 Shiller ¶¶ 31-33.

1 Unique's chargeback rate was much higher than what Visa and MasterCard allow, and
2 had a merchant account terminated due to high chargebacks.¹⁵⁹

3 SILVERS

4 Silvers is an owner and officer of PBS.¹⁶⁰ He opened and managed the merchant
5 accounts and depository accounts used in the grant scam;¹⁶¹ (2) opened mail drops for
6 PBS;¹⁶² (3) is the contact person for Premium Domain's website;¹⁶³ and (4) funneled ill-
7 gotten gains from PBS to Amazing App.¹⁶⁴

8 Silvers also knows that Defendants' representations about grants are deceptive.
9 Silvers as a manager of PBS, corresponded and spoke with the North Dakota Attorney
10 General's Office about a consumer complaint from a consumer who had been promised a
11 grant by PBS to to help with the consumer's credit card debt.¹⁶⁵ After Silvers stopped
12 responding, the North Dakota Attorney General's Office served him and PBS with a
13 Cease and Desist Order that alleged that Silvers and PBS made misrepresentations when
14 it made the promises to the consumer "regarding expected grants."¹⁶⁶

15 Furthermore, like Stumbo and Hoffman, Silvers knows that know that Defendants'
16 sales practices generate large numbers of upset consumers. Stumbo has received
17 notifications from the payment processor that PBS was generating large numbers of
18 chargebacks.¹⁶⁷ Indeed, Silver received an email notifying him that PBS' merchant
19 account was being terminated due to high chargebacks.¹⁶⁸

22 ¹⁵⁹ PX20 Jones ¶ (d) at 7.

23 ¹⁶⁰ PX20 Jones at 7 and ¶ 41.

24 ¹⁶¹ PX20 Jones at 7.

24 ¹⁶² PX20 Jones ¶ 40(c).

25 ¹⁶³ PX20 Jones ¶ 45.

25 ¹⁶⁴ PX24 Van Wazer ¶ 12.

26 ¹⁶⁵ PX20 Jones ¶ 48.

27 ¹⁶⁶ *Id.*

27 ¹⁶⁷ PX20 Jones ¶ (f) at 6.

28 ¹⁶⁸ PX21 Shiller ¶ 49.

1 Finally, as the owners and operators of these closely-held businesses—which do
2 not provide any legitimate services—the Individual Defendants cannot plausibly be
3 ignorant of the fraudulent nature of their enterprise.

4 F. Consumer Harm

5 The FTC, the Better Business Bureau, and state attorney’s general have received
6 complaints from consumers victimized by this scam, with losses ranging from hundreds
7 to thousands of dollars.¹⁶⁹ Since 2014, Defendants have charged consumers more than \$3
8 million for their bogus grant services.¹⁷⁰

9 IV. ARGUMENT

10 A. The FTC Act Authorizes This Court to Grant the Requested Relief

11 Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), gives the Court authority to issue
12 an injunction against violation of any provisions of law enforced by the FTC and “any
13 ancillary relief necessary to accomplish complete justice.” *FTC v. Commerce Planet,*
14 *Inc.*, 815 F.3d 593, 598 (9th Cir. 2016) (quoting *FTC v. Pantron I Corp.*, 33 F.3d 1088,
15 1102 (9th Cir. 1994); *FTC v. H.N. Singer, Inc.*, 668 F.2d 1107, 1111-13 (9th Cir. 1982)).
16 This ancillary relief can include, among other remedies, an *ex parte* TRO, a preliminary
17 injunction, an asset freeze, and the appointment of a receiver. *See, e.g., FTC v. Affordable*
18 *Media, LLC*, 179 F.3d 1228, 1232 & n.2 (9th Cir. 1999) (TRO and preliminary injunction
19 including asset freeze); *FTC v. Am. Nat’l Cellular, Inc.*, 810 F.2d 1511, 1512 (9th Cir.
20 1987) (TRO and preliminary injunction including asset freeze and appointment of a
21 receiver). On numerous occasions, courts of this District have acted under the authority
22 of Section 13(b) to grant preliminary relief similar to that sought here.¹⁷¹

23 ¹⁶⁹ PX21 Shiller Decs ¶ 50.

24 ¹⁷⁰ PX20 Jones ¶¶ 31-33.

25 ¹⁷¹ *See, e.g., FTC v. Advertising Strategies, LLC, et al.*, CV-16-03353(D. Ariz. Oct. 4,
26 2016) (Humetewa, J.); *FTC v. Blue Saguaro Marketing, LLC, et al.*, CV-16-03406 (D.
27 Ariz. Oct. 7, 2016)(Logan, J.); *FTC v. Money Now Funding, LLC*, No. CV-13-01583 (D.
28 Ariz. Aug. 5, 2013) (Snow, J.); *FTC v. American Business Builders LLC, et al.*, No. CV-
12-2368 (D. Ariz. Nov. 6, 2012) (Snow, J.); *FTC v. ELH Consulting LLC, et al.*, No. CV-
12-2246- (D. Ariz. Oct. 22, 2012) (Teilborg, J.); *FTC v. Ambrosia Web Design LLC, et*
al., No. CV-12-2248 (D. Ariz. Oct. 22, 2012) (Teilborg, J.); *FTC v. North Am. Mktg. and*

1 In determining whether to grant preliminary relief under Section 13(b), the Court
 2 must consider two factors: (1) the FTC’s likelihood of ultimate success; and (2) whether
 3 the public equities outweigh any private equities. *Affordable Media*, 179 F.3d at 1233.
 4 Unlike private litigants, the FTC does not need to prove irreparable injury, which is
 5 presumed. *FTC v. Warner Communications Inc.*, 742 F.2d 1156, 1159 (9th Cir. 1984);
 6 *FTC v. World Wide Factors, Ltd.*, 882 F.2d 344, 347 (9th Cir. 1989). Because irreparable
 7 injury is presumed, the burden of establishing success on the merits is decreased, and the
 8 Court “need only . . . find some chance of probable success on the merits” in order to
 9 award preliminary relief. *Id.* (quoting *United States v. Odessa Union Warehouse Co-op*,
 10 833 F.2d 172, 176 (9th Cir. 1987)). Moreover, when weighing the equities, the public
 11 interest should receive greater weight than private interests. *Id.*

12 **B. A Temporary Restraining Order is Appropriate and Necessary**

13 The evidence shows that the FTC is likely to succeed on its claims that Defendants
 14 have violated the FTC Act and the TSR, and the equities weigh heavily in favor of the
 15 requested preliminary relief.

16 **1. The FTC Is Likely to Succeed on the Merits**

17 **a. Defendants Have Violated Section 5 of the FTC Act**

18 Section 5 of the FTC Act empowers the FTC to prevent “deceptive acts or
 19 practices in or affecting commerce.” 15 U.S.C. § 45(a). An act or practice is deceptive if
 20 “first, there is a representation, omission, or practice that, second, is likely to mislead
 21 consumers acting reasonably under the circumstances, and third, the representation,
 22 omission, or practice is material.” *FTC v. Gill*, 265 F.3d 944, 950 (9th Cir. 2001); *Pantron*
 23 *I Corp.*, 33 F.3d at 1095 (internal citations omitted). A misrepresentation may be either
 24 express or implied. *FTC v. Figgie Int’l*, 994 F.2d 595, 604 (9th Cir. 1993) (“[N]othing in
 25 statute or case law . . . protects from liability those who merely imply their deceptive

26 _____
 27 *Assoc., LLC, et al.*, No. CV-12-914 (D. Ariz. May 2, 2012) (Campbell, J.); *FTC v.*
 28 *Government Careers, Inc., et al.*, No. CV09-721 (D. Ariz. Jan. 5, 2010) (Bury, J.); *FTC v.*
Freedom Foreclosure Prevention Services LLC, et al., No. CV-09-1167 (D. Ariz. June 1,
 2009) (Martone, J.).

1 claims.”). A representation, omission, or practice is material if it “involves information
2 that is important to consumers and, hence, likely to affect their choice of, or conduct
3 regarding, a product.” *FTC v. Cyberspace.com, LLC*, 453 F.3d 1196, 1201 (9th Cir. 2006)
4 (quoting *In re Cliffdale Assocs.*, 103 F.T.C. 110, 165, 1984 WL 565319 (F.T.C. 1984)).¹⁷²

5 Express claims are presumed to be material. *Pantron I Corp.*, 33 F.3d at 1095-96.
6 Consumer reliance on express claims is presumptively reasonable. *FTC v. Five-Star Auto*
7 *Club, Inc.*, 97 F. Supp. 2d 502, 528 (S.D.N.Y. 2000).

8 In determining whether a solicitation is likely to mislead consumers, courts
9 consider the overall “net impression” it creates. *FTC v. Stefanchik*, 559 F.3d 924, 928 (9th
10 Cir. 2009). “A solicitation may be likely to mislead by virtue of the net impression it
11 creates even though the solicitation also contains truthful disclosures.” *Cyberspace.com*,
12 453 F.3d at 1200. Moreover, courts have held that claims of “potential” or “projected”
13 earnings or rewards imply that such earnings are representative of what many consumers
14 have achieved. *Five-Star Auto*, 97 F. Supp. 2d at 528. A representation is also deceptive
15 if the maker of the representation lacks a reasonable basis for the claim. *FTC v. Direct*
16 *Mktg. Concepts, Inc.*, 624 F.3d 1, 8 (1st Cir. 2010). Where the maker of the claim lacks
17 adequate substantiation evidence, the maker necessarily lacks any reasonable basis for its
18 claims. *Id.*; *Removatron Int’l Corp. v. FTC*, 884 F.2d 1489, 1498 (1st Cir. 1989).

19 Defendants have violated Section 5 by misrepresenting that consumers who
20 purchase and use Defendants’ services are likely to receive government, corporate, or
21 private grants worth thousands of dollars, which the consumers can use for personal
22 expenses. Numerous courts, including those in this district have found such claims to be
23 deceptive.¹⁷³

24
25
26 ¹⁷² The FTC need not prove actual reliance by each individual consumer. *Figgie Int’l*, 994
F.2d at 605-06.

27 ¹⁷³ See *FTC v. Navestad*, 2012 U.S. Dist. LEXIS 40197 (W.D.N.Y. Mar. 23, 2012) and
28 *FTC v. Blue Saguaro Marketing, LLC, et al.*, CV-16-03406 (D. Ariz. Oct. 7, 2016).

i. The FTC is Likely to Prevail on Count I

Count I of the Complaint alleges that Defendants' representation that consumers who purchase and use Defendants' services are likely to receive government, corporate, or private grants worth thousands of dollars, which the consumers can use for personal expenses, is false and unsubstantiated. Misrepresentations regarding gain potential are both likely to deceive and material. *Five-Star Auto*, 97 F. Supp. 2d at 529; *FTC v. Minuteman Press*, 53 F.Supp. 2d 248, 258 (E.D.N.Y. 1998) ("misrepresentations—which tend to bear directly on the economic viability of the transaction under question—are both likely to deceive and material"); *FTC v. Kitco of Nevada, Inc.*, 612 F. Supp. 1282, 1292 (D. Minn. 1985). And, consumer reliance on the express claims is reasonable. *Five-Star Auto*, 97 F. Supp. 2d at 529.

Defendants falsely tell consumers that by paying for Defendants' grant services, consumers are likely to receive government, corporate, or private grants often worth tens of thousands of dollars, which the consumers can use for personal expenses, such as repaying credit card and other debt, home repairs, and medical expenses for personal expenses.¹⁷⁴ Defendants claim to have a have a 95-98% success rate in obtaining such grants or tell consumers that the grant is a "done deal" or "sure thing."¹⁷⁵ These claims are false and lack any reasonable basis.¹⁷⁶ Federal and state grants are not awarded to individuals for personal expenses, and private grants are rarely, if ever, awarded to individuals for personal expenses.¹⁷⁷ Indeed, not only are the type of grants Defendants tout to consumers extremely rare or non existant, the bogus training provided by Defendants would not enable consumers to obtain such grants.¹⁷⁸ In fact, in numerous, if

¹⁷⁴ See Declarations cited *supra* note 23 and all other consumer declarations filed with this Motion.

¹⁷⁵ See *supra* Notes 86 and 87.

¹⁷⁶ PX22 Bauer ¶ 32.

¹⁷⁷ PX22 Bauer ¶ 12.

¹⁷⁸ PX22 Bauer ¶ 17.

1 not virtually all instances, consumers who pay Defendants' fees receive nothing of value
2 whatsoever.¹⁷⁹

3 **b. The Defendants Have Violated the TSR and the FTC is**
4 **Likely to Prevail on Count II**

5 The TSR prohibits sellers and telemarketers from making a false or misleading
6 statement to induce any person to pay for goods or services. 16 C.F.R. § 310.3 (a)(4).
7 Defendants are sellers or telemarketers as defined by the TSR because they arrange for
8 the sale of goods or services over the phone. Their false representation, discussed above,
9 violates Section 310.3(a)(4).

10 Count II of the Complaint brings charges under the TSR based on the same
11 misrepresentations pled in Count I. The FTC is likely to prevail on Count II for the same
12 reasons it should prevail on Count I.

13 **c. The Corporate Defendants Are Subject to Joint and**
14 **Several Liability as a Common Enterprise**

15 As shown in Section II.A, above, the Corporate Defendants have operated as a
16 common enterprise. "Defendants found to be a common enterprise are held jointly and
17 severally liable for the injury caused by their violations of the FTC Act." *FTC v. J.K.*
18 *Publ'ns, Inc.*, 99 F. Supp. 2d 1176, 1202 (C.D. Cal. 2000) (quotations omitted). Thus,
19 each of the Corporate Defendants is liable for the total injury caused by the scam.

20 **d. The Individual Defendants Are Personally Liable**

21 An individual defendant is liable (1) for injunctive relief if she directly
22 participated in the unlawful acts or had some control over the acts, and (2) for monetary
23 relief if she also possessed actual or constructive knowledge of the unlawful acts. *FTC v.*
24 *Publ'g Clearing House*, 104 F.3d 1168, 1170-71 (9th Cir. 1997); *FTC v. Network Servs.*
25 *Depot, Inc.*, 617 F.3d 1127, 1138 (9th Cir. 2010). An individual's "status as a corporate
26 officer and authority to sign documents on behalf of the corporate defendant can be
27

28 ¹⁷⁹ PX21 Shiller ¶ 50.

1 sufficient to demonstrate the requisite control.” *J.K. Publications, Inc.*, 99 F. Supp. 2d at
2 1204. Likewise, a “corporate officer is presumed to be in control of a small, closely-held
3 corporation, and assuming the duties of a corporate officer is probative of an individual’s
4 participation or authority.” *FTC v. Ivy Capital, Inc.*, No. 2:11-CV-283, 2013 WL
5 1224613, *14 (D. Nev. Mar. 26, 2013); *FTC v. Transnet Wireless Corp.*, 506 F. Supp. 2d
6 1247, 1270 (S.D. Fla. 2007); *FTC v. Windward Mktg.*, No. 1:96-CV-615F, 1997 WL
7 33642380, *13 (N.D. Ga. Sept. 30, 1997).

8 As shown in Section II.B, above, the Individual Defendants are the officers and
9 owners of the Corporate Defendants through which they execute the scam at issue. As
10 further shown in Sections III.E and F, the Individual Defendants control, participate in,
11 and have knowledge of the unlawful acts. They are therefore personally liable, jointly
12 and severally, for the total injury caused by their scam.

13 **2. The Equities Tip Decidedly in the Public’s Favor**

14 “[W]hen a district court balances the hardships of the public interest against a
15 private interest, the public interest should receive greater weight.” *FTC v. USA*
16 *Financial, LLC*, 415 Fed. Appx. 970, 974-75 (11th Cir. 2011). The public interest in this
17 case is compelling—halting unlawful and injurious conduct and preserving assets that
18 may be used for restitution to their victims. Defendants, by contrast, have no legitimate
19 interest in continuing their scam. *See World Wide Factors*, 882 F.2d at 347 (“no
20 oppressive hardship to defendants in requiring them to comply with the FTC Act, refrain
21 from fraudulent representation or preserve their assets from dissipation or concealment”)
22 (quotation omitted).

23 As the evidence filed herewith demonstrates, the FTC is likely to succeed on the
24 merits, and the equities tip decidedly in the public’s favor. Thus, a TRO is warranted.

25 **C. The Proposed *Ex Parte* TRO Is Appropriate**

26 The FTC has filed this action to stop the Defendants’ unlawful acts and practices
27 and to obtain restitution for their victims. If Defendants receive advance warning of the
28 FTC’s action, there is a substantial risk that they will dissipate assets or destroy evidence,

1 which will frustrate the Court's ability to grant the final relief sought.¹⁸⁰ As set forth in
2 Section C.1 below, Defendants have changed the name and location of their scheme on
3 several occasions to thwart investigation and evade law enforcement.

4 To preserve the possibility of effective final relief, including victim restitution, the
5 proposed *ex parte* TRO would: (1) freeze the Individual and Corporate Defendants'
6 assets; (2) appoint a temporary receiver over the Corporate Defendants; (3) grant the FTC
7 and the temporary receiver immediate access to the business premises where the
8 Defendants currently operate; (4) provide the FTC and receiver with expedited discovery
9 related to Defendants assets and business records; and (5) provide for an accounting of
10 Defendants' assets.

11 The Ninth Circuit has repeatedly upheld the authority of district courts to order an
12 asset freeze to preserve the possibility of consumer redress. *See, e.g., Affordable Media*,
13 179 F.3d at 1232 & n.2 (*ex parte* TRO and preliminary injunction including asset freeze);
14 *Am. Nat'l Cellular, Inc.*, 810 F.2d at 1512 (TRO and preliminary injunction including
15 asset freeze and appointment of a receiver). And district court judges in Arizona have
16 frozen the assets of defendants in numerous FTC enforcement actions, including in the
17 recent *Blue Saguaro Marketing, LLC* action against similar grant scamsters.¹⁸¹ As the
18 FTC is likely to succeed in showing that the Individual Defendants are personally liable
19 for restitution, the asset freeze should extend to their assets as well. *FTC v. World Travel*
20 *Vacation Brokers, Inc.*, 861 F.2d 1020, 1031 (7th Cir. 1988); *FTC v. Gem Merchandising*,
21 87 F.3d 466, 470 (11th Cir. 1996).

22 Appointing a temporary receiver is critical. Where Corporate Defendants and
23 their managers and officers have been engaged in deception, "it is likely that in the
24 absence of the appointment of a receiver to maintain the status quo, the corporate assets

25
26 ¹⁸⁰ Even though Stumbo is currently incarcerated, past FTC defendants have operated and
27 participated in scams from behind bars. In *FTC v. Nationwide Connections, Inc.*, No. 06-
80180. (S.D. Fla. Feb. 24, 2006), the mastermind of a bogus phone billing scheme
continued to head the illegal operation even while incarcerated.

28 ¹⁸¹ *See supra*, note 4.

1 will be subject to diversion and waste” to the detriment of consumers victimized by the
2 fraud. *SEC v. First Fin. Group*, 645 F.2d 429, 438 (5th Cir. 1981); *see also FTC v. U.S.*
3 *Oil & Gas Corp.*, 748 F.2d 1431, 1432 (11th Cir. 1984) (affirming preliminary injunction
4 that imposed an asset freeze and appointed a receiver); *FTC v. USA Beverages, Inc.*, No.
5 05-CV-61682, 2005 WL 5654219, at *8 (S.D. Fla. Dec. 6, 2005) (“Appointing a receiver
6 for [the corporate defendant] is essential to ensure that [it] complies with the [court’s
7 order], and to prevent the destruction of evidence and the concealment or dissipation of
8 assets.”). The receiver will help ensure that the Corporate Defendants do not dissipate
9 their ill-gotten gains by identifying, securing and controlling the use of the Corporate
10 Defendants’ assets, as well as marshaling and preserving their records. The receiver may
11 also assist in determining the full extent of the fraud and in identifying additional victims.

12 Furthermore, in order to fully unravel the tangle of corporations involved in this
13 matter, and to locate assets wrongfully obtained from defrauded consumers, the FTC
14 respectfully requests that this Court permit expedited discovery, allow the FTC
15 immediate access to Corporate Defendants’ business premises and records, and order
16 financial reporting by Defendants.

17 District courts are authorized to depart from routine discovery procedures and
18 fashion discovery to meet the needs of particular cases. *See*, Fed. R. Civ. P. 1, 26(d) and
19 34(b). Moreover, the prompt and full disclosure of the scope of Defendants’ business
20 operations, their financial status, the participants involved, and their roles in this scheme,
21 is necessary to ensure that the Court is fully advised regarding: (1) the full range and
22 extent of Defendants’ law violations; (2) the identities of injured consumers; (3) the total
23 amount of consumer injury; and (4) the nature, extent and location of Defendants’ assets.
24 For these reasons, the proposed TRO also requires that Defendants produce certain
25 financial records and information, and requires financial institutions served with the order
26 to disclose whether they are holding any of Defendants’ assets.

27 This requested relief is necessary to identify and preserve assets Defendants
28 wrongfully obtained from consumers. Any hardship on Defendants caused by the relief

1 sought would be temporary and is greatly outweighed by the public's interest in
2 preserving evidence and assets obtained through Defendants' unlawful practices.

3 **1. The Need for Under Seal Filing and *Ex Parte* Relief**

4 Defendants have shown utter disregard for the law, and a willingness to evade
5 inquiries into their business practices. DeRosa is banned from selling "services related to
6 grant funding" and is a scofflaw.¹⁸² Due to their connections to previous grant scheme
7 ASM, DeRosa, Hilliard and Hoffman must know that DeRosa is not allowed to provide
8 or assist with grant service.¹⁸³ Moreover, Defendants employ individuals who worked at
9 previous grant scams that were shut down by law enforcement, such as ASM and Blue
10 Saguaro Marketing.¹⁸⁴

11 Furthermore, when the BBB and the North Dakota Attorney General's Office
12 reached out to Hilliard and Silvers about specific complaints related to their grant
13 businesses, Hilliard and Silvers failed to respond and created new companies with new
14 d/b/as to continue their grant scheme.¹⁸⁵ When PBS's merchant account was terminated
15 for too many chargebacks, Defendants transitioned to merchant accounts in the names of
16 Premium Domain and 2 Unique.¹⁸⁶ And Defendants recently abruptly packed up and
17 moved their operation, vacating office space they had leased.¹⁸⁷

18 BBBs have received numerous consumer complaints about Defendants and have
19 forwarded these inquiries to Defendants. Defendants have consistently failed to
20 respond.¹⁸⁸

21 Finally, several of the Individual Defendants have past arrests and convictions.
22 These include charges of fraud, forgery, and burglary.

23 ¹⁸² PX20 Jones ¶ 46.

24 ¹⁸³ PX21 Shiller ¶¶ 32-33.

25 ¹⁸⁴ PX20 Jones ¶ 50.

26 ¹⁸⁵ See, PX16 Glenn ¶ 12 (Hilliard) and PX20 Jones ¶ 46 (Silvers).

27 ¹⁸⁶ PX20 Jones at 6-7.

28 ¹⁸⁷ PX17 Bruha ¶ 10.

¹⁸⁸ PX16 Glenn ¶ 12 and PX15 J. Brown ¶¶ 7-10.

