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9 Federal Trade Commission

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 **FEDERAL TRADE COMMISSION,**

13 **Plaintiff,**

14 **vs.**

15 **MICHAEL BRUCE MONEYSMAKER, a/k/a**
16 **Bruce Money maker, Mike Smith, and Michael**
17 **Bruce Millerd, individually, as an officer and**
18 **director of the corporate defendants, and also**
doing business as Fortress Secured,

19 **DANIEL DE LA CRUZ, individually, as an**
20 **officer and director of the corporate**
defendants, and also doing business as Fortress
Secured,

21 **BELFORT CAPITAL VENTURES, INC., a**
22 **corporation,**

23 **DYNAMIC ONLINE SOLUTIONS, LLC, a**
limited liability company,

24 **HSC LABS, INC., a corporation,**

25 **Case No. 2:11-cv-00461-JCM-RJJ**

1 **RED DUST STUDIOS, INC., a corporation,**
2 **SEASIDE VENTURES TRUST, individually**
3 **and as an officer and director of the corporate**
4 **defendants, and**
5 **JOHN DOE NO. 1, in his capacity as trustee of**
6 **Seaside Ventures Trust,**
7
8 **Defendants.**

9 **PRELIMINARY INJUNCTION WITH ANCILLARY EQUITABLE RELIEF**

10 Plaintiff Federal Trade Commission (“FTC” or the “Commission”), pursuant to Section
11 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), filed a Complaint
12 for a Permanent Injunction and Other Equitable Relief (the “Complaint”), including consumer
13 redress, and has moved *ex parte* for a temporary restraining order and for an order to show cause
14 why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules
15 of Civil Procedure on March 29, 2011. This Court entered a temporary restraining order on
16 March 29, 2011 (the “TRO”).

17 **FINDINGS OF FACT**

18 The Court, having considered the declarations, exhibits, memoranda, and oral argument
19 presented by the parties, as well as any evidence introduced at any hearing on the matter, finds as
20 follows:

- 21 1. This Court has jurisdiction over the subject matter of this case, and there is good cause to
22 believe it will have jurisdiction over all parties hereto;
- 23 2. There is good cause to believe that venue lies properly with this Court;
- 24 3. There is good cause to believe that Defendants Michael Bruce Moneymaker, Daniel De

1 La Cruz, Belfort Capital Ventures, Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., Red
2 Dust Studios, Inc., Seaside Ventures Trust, and John Doe No. 1 (collectively, “Defendants”),
3 have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the
4 Federal Trade Commission Act;

5 4. There is good cause to believe that the Commission is likely to prevail on the merits of
6 this action. The evidence demonstrates that Defendants have engaged in deceptive and unfair
7 acts or practices in violation of Section 5 of the FTC Act by acquiring consumer’s bank account
8 information when those consumers apply for payday loans online and then, without notice to the
9 consumers, debiting those consumers’ bank accounts. There is good cause to believe that
10 Defendants will continue such illegal actions if not restrained from doing so by Order of this
11 Court;

12 5. There is good cause for appointing a Receiver for Defendants Belfort Capital Ventures,
13 Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., and Red Dust Studios, Inc.;

14 6. Weighing the equities and considering the Commission’s likelihood of ultimate success
15 on the merits, a Preliminary Injunction with asset freeze and other equitable relief is in the public
16 interest; and

17 7. The FTC is an independent agency of the United States of America. No security is
18 required of any agency of the United States for the issuance of a Preliminary Injunction. Fed. R.
19 Civ. P. 65(c).

20 **DEFINITIONS**

21 For the purposes of this Preliminary Injunction, the following definitions apply:

22 1. “**Assets**” means any legal or equitable interest in, right to, or claim to, any and all real
23 and personal property of Defendants, or held for the benefit of Defendants, including but not
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1 limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects,
2 leaseholds, inventory, checks, notes, accounts, credits, receivables, shares of stock, contracts,
3 and all cash and currency, or other assets, or any interest therein, wherever located;

4 2. **“Defendants”** means Michael Bruce Money maker, Daniel De La Cruz, Belfort Capital
5 Ventures, Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., Red Dust Studios, Inc., Seaside
6 Ventures Trust, and John Doe No. 1 in his capacity as trustee of Seaside Ventures Trust;

7 3. **“Document”** is synonymous in meaning and equal in scope to the terms “document” and
8 “electronically stored information,” as described and used in Federal Rule of Civil Procedure
9 34(a)(1)(A);

10 4. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”);

11 5. **“Receiver”** means the Receiver appointed in Section VII of this Order. The term
12 “Receiver” also includes any deputy receivers or agents as may be named by the Receiver; and

13 6. **“Receivership Defendants”** means Belfort Capital Ventures, Inc., Dynamic Online
14 Solutions, LLC, HSC Labs, Inc., Red Dust Studios, Inc., and their subsidiaries, affiliates,
15 divisions, successors, and assigns, and includes fictitious names under which they do business,
16 including but not limited to Centralized Customer Service, Uniguard, Freedom Subscription,
17 Illustrious Perks, Select Platinum Credit, Kryptonite Credit, New Economy Planning, Inc., FK
18 Grant Family, LLC, Refund Express, Tabula Rasa, Inc., SVM, SVM, Inc., SVM Group, Inc.,
19 Fortress Secured, Fortress Secured, Inc., Glamourous Credit, Vanquisher Benefits, Champion
20 Credit, Pioneer Power, Star Bens, Primary Benefits, Sublime Membership, Noble Subscription,
21 and Top Dog Credit Lines.

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I.
PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that, in connection with the advertising, marketing, promotion, offering for sale, or sale of any products, goods, or services, Defendants and their successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are **hereby restrained and enjoined** from:

- A. Obtaining consumers' financial information or charging consumers without their express informed consent;
- B. Failing to disclose or disclose adequately that Defendants will charge consumers when representing to consumers that third-party trial offers will be extended to them; and
- C. Making, or assisting others in the making of, expressly or by implication, any material misrepresentations, including but not limited to:
 - 1. That Defendants will use consumers' authorizations to further consumers' payday loan applications;
 - 2. That consumers agreed:
 - a. to enroll in Defendants' continuity programs;
 - b. to pay charges associated with Defendants' continuity programs;or
 - c. that they would be entitled to a refund for Defendants' continuity programs only if they asked for a refund during the trial period; or
 - 3. That Defendants will provide consumers refunds.

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II.
ASSET FREEZE

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from directly or indirectly:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, or any other assets, or any interest therein, wherever located, including outside the United States, that are:

1. Owned or controlled, directly or indirectly, by any Defendant(s), in whole or in part, or held, in whole or in part for the benefit of any Defendant(s);
2. In the actual or constructive possession of any Defendant(s);
3. Owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant(s), including, but not limited to, any assets of Centralized Customer Service, Uniguard, Freedom Subscription, Illustrious Perks, Select Platinum Credit, Kryptonite Credit, New Economy Planning, Inc., FK Grant Family, LLC, Refund Express, Tabula Rasa, Inc., SVM, SVM, Inc., SVM Group, Inc., Fortress Secured, Fortress Secured, Inc., Glamouruous Credit, Vanquisher Benefits, Champion Credit, Pioneer Power, Star Bens, Primary Benefits, Sublime Membership, Noble Subscription, and Top Dog Credit Lines, or any other entity acting under a

1 fictitious name owned by or controlled by any Defendant(s), and any
2 assets held by, for, or under the name of any Defendant(s) at any bank,
3 savings and loan institution, or bank of any Defendant(s), or with any
4 broker-dealer, escrow agent, title company, commodity trading company,
5 payment processing company, precious metal dealer, or other financial
6 institution or depository of any kind;

7 B. Opening or causing to be opened any safe deposit boxes titled in the name of any
8 Defendant(s), or subject to access by any Defendant(s);

9 C. Incurring charges or cash advances on any credit card, debit card, or checking
10 card issued in the name, singly or jointly, of any Defendant(s);

11 D. Obtaining a personal or secured loan;

12 E. Incurring liens or encumbrances on real property, personal property, or other
13 assets in the name, singly or jointly, of any Defendant(s); and

14 F. Cashing any checks from consumers, clients, or customers of any Defendant(s).

15 *Provided further*, that the assets affected by this Section shall include: (1) all assets of
16 Defendants as of the time the TRO was entered; and (2) for assets obtained after the time the
17 TRO was entered, those assets of Defendants that are derived, directly or indirectly, from
18 Defendants' business activities as described in the Commission's Complaint.

19 This Section does not prohibit transfers to the Receiver, as specifically required in
20 Section X (Delivery of Receivership Property), nor does it prohibit the repatriation of foreign
21 assets, as specifically required in Section V (Repatriation of Foreign Assets) of this Order.

1 **III.**
2 **FINANCIAL REPORTS AND ACCOUNTING**

3 **IT IS FURTHER ORDERED** that, to the extent not already provided pursuant to the
4 TRO, each Defendant shall immediately provide the FTC and the Receiver with:

- 5 A. Completed financial statements fully disclosing the Defendants' finances and
6 those of all corporations, limited liability companies, partnerships, trusts or other
7 entities that each Defendant owns, controls, or is associated with in any capacity,
8 jointly or individually, on the forms attached to this Order as Attachments A and
9 B, accurate as of the date of service of this Order upon Defendants;
- 10 B. Copies of signed and completed federal and state income tax forms, including all
11 schedules and attachments, for the three most recent filing years;
- 12 C. Access to records and documents held by financial institutions outside the
13 territory of the United States, by signing the Consent to Release of Financial
14 Records attached to this Order as Attachment C; and
- 15 D. Copies of such other financial statements as the Receiver or the FTC may request
16 in order to monitor Defendants' compliance with the provisions of this Order.

17 **IV.**
18 **RETENTION OF ASSETS AND RECORDS**
19 **BY FINANCIAL INSTITUTIONS AND THIRD PARTIES**

20 **IT IS FURTHER ORDERED** that any financial or brokerage institution or depository,
21 escrow agent, title company, commodity trading company, payment processing company, trust,
22 entity, or person that: (1) holds, controls, or maintains custody of any account or asset owned or
23 controlled by any Defendant(s); (2) holds, controls, or maintains custody of any asset associated
24 with credit or debit card charges, electronic fund transfers, or remotely created checks made by,
25 or on behalf of, any Defendant(s) or any other entity owned or controlled by any Defendant(s);

1 or (3) has held, controlled, or maintained any account or asset of, or on behalf of, any
2 Defendant(s) at any time since March 28, 2007, upon service with a copy of this Order, shall:

3 A. Hold and retain within its control and prohibit Defendants or any other person or
4 entity with control over such assets from withdrawing, removing, assigning,
5 transferring, pledging, encumbering, disbursing, dissipating, converting, selling,
6 gifting, or otherwise disposing of any such assets, funds, or other property,
7 except:

8 1. As directed by further order of the Court; or

9 2. As directed in writing by the Receiver (regarding assets held in the name
10 or for the benefit of any Receivership Defendant);

11 B. Deny Defendants access to any safe deposit box titled in the name of any
12 Defendant(s), individually or jointly, or subject to access by any Defendant(s),
13 whether directly or indirectly;

14 C. To the extent not already provided pursuant to the TRO, shall immediately
15 provide counsel for the FTC and the Receiver a certified statement setting forth:

16 1. The identification number of each such account or asset titled: (1) in the
17 name, individually or jointly, of any Defendant(s); (2) held on behalf of,
18 or for the benefit of, any Defendant(s); (3) owned or controlled by any
19 Defendant(s); or (4) otherwise subject to access by any Defendant(s),
20 directly or indirectly;

21 2. The balance of each such account, or a description of the nature and value
22 of such asset, as of the close of business on the day on which this Order is
23 served, and, if the account or other asset has been closed or removed, the
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1 date closed or removed, the total funds removed in order to close the
2 account, and the name of the person or entity to whom such account or
3 other asset was remitted;

4 3. The identification of any safe deposit box that is either titled in the name
5 of any Defendant(s), or is otherwise subject to access by any
6 Defendant(s); and

7 4. If an account, safe deposit box, or other asset has been closed or removed,
8 the date closed or removed, the balance of any account or value of any
9 asset on such date, and the manner in which such account or asset was
10 closed or removed;

11 D. To the extent not already provided pursuant to the TRO, shall immediately
12 provide counsel for the FTC and the Receiver copies of all documents pertaining
13 to such account or asset, including but not limited to originals or copies of
14 account applications, account statements, signature cards, checks, drafts, deposit
15 tickets, transfers to and from the account, all other debit and credit instruments or
16 slips, currency transaction reports, 1099 forms, and safe deposit box logs;
17 provided that such institution or custodian may charge a reasonable fee; and

18 E. Cooperate with all reasonable requests of the Receiver relating to this Order's
19 implementation.

20 **V.**
REPATRIATION OF FOREIGN ASSETS

21 **IT IS FURTHER ORDERED** that, to the extent not already completed pursuant to the
22 TRO, each Defendant shall immediately:

23 A. Provide counsel for the FTC and the Receiver with a full accounting of all funds
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1 and assets outside of the territory of the United States which are held either: (1)
2 by Defendant(s); (2) for the benefit of any Defendant(s); or (3) under direct or
3 indirect control, individually or jointly, of any Defendant(s), as required by the
4 forms included in Attachments A and B;

5 B. Transfer to the territory of the United States all such funds and assets in foreign
6 countries; and

7 C. Hold and retain all repatriated funds and assets, and prevent any disposition,
8 transfer, or dissipation whatsoever of any such assets or funds, except as required
9 by this Order.

10 **VI.**
11 **NON-INTERFERENCE WITH REPATRIATION**

12 **IT IS FURTHER ORDERED** that Defendants, and each of their successors, assigns,
13 members, officers, agents, servants, employees, and attorneys, and those persons in active
14 concert or participation with them who receive actual notice of this Order by personal service or
15 otherwise, whether acting directly or through any entity, corporation, subsidiary, division,
16 affiliate or other device, are hereby restrained and enjoined from taking any action, directly or
17 indirectly, that may result in the encumbrance or dissipation of foreign assets, or in the hindrance
18 of the repatriation required by Section V of this Order, including but not limited to:

19 A. Sending any statement, letter, fax, e-mail, or wire transmission, telephoning or
20 engaging in any other act, directly or indirectly, that results in a determination by
21 a foreign trustee or other entity that a “duress” event has occurred under the terms
22 of a foreign trust agreement, until such time that all assets have been fully
23 repatriated pursuant to Section V of this Order; and

24 B. Notifying any trustee, protector, or other agent of any foreign trust or other

1 related entities of either the existence of this Order, or of the fact that repatriation
2 is required pursuant to a Court Order, until such time that all assets have been
3 fully repatriated pursuant to Section V of this Order.

4 **VII.**
5 **APPOINTMENT OF RECEIVER**

6 **IT IS FURTHER ORDERED** that Robb Evans & Associates, LLC is appointed
7 Receiver for the Receivership Defendants, and any affiliates or subsidiaries thereof controlled by
8 any Receivership Defendant, with the full power of an equity receiver. The Receiver shall be the
9 agent of this Court and solely the agent of this Court in acting as Receiver under this Order. The
10 Receiver shall be accountable directly to this Court. The Receiver shall comply with all local
11 rules and laws governing federal equity receivers.

12 **VIII.**
13 **COOPERATION WITH THE RECEIVER**

14 **IT IS FURTHER ORDERED** that Defendants shall fully cooperate with and assist the
15 Receiver. Defendants' cooperation and assistance shall include, but not be limited to, providing
16 any information to the Receiver that the Receiver deems necessary to exercise the authority and
17 discharge the responsibilities of the Receiver under this Order; providing any login and password
18 required to access any computer or electronic files or information in any medium; and advising
19 all persons who owe money to the Receivership Defendants that all debts should be paid directly
20 to the Receiver. Defendants are hereby restrained and enjoined from directly or indirectly:

- 21 A. Transacting any of the business of the Receivership Defendants;
22 B. Excusing debts owed to the Receivership Defendants;
23 C. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of
24 any documents of the Receivership Defendants;

- 1 D. Transferring, receiving, altering, selling, encumbering, pledging, assigning,
2 liquidating, or otherwise disposing of any assets owned, controlled, or in the
3 possession or custody of, or in which an interest is held or claimed by, the
4 Receivership Defendants, or the Receiver;
- 5 E. Failing to notify the Receiver of any asset, including accounts, of the
6 Receivership Defendants held in any name other than the name of the
7 Receivership Defendants, or by any person or entity other than the Receivership
8 Defendants, or failing to provide any assistance or information requested by the
9 Receiver in connection with obtaining possession, custody, or control of such
10 assets; or
- 11 F. Doing any act or thing whatsoever to interfere with the Receiver's taking and
12 keeping custody, control, possession, or managing of the assets or documents
13 subject to this receivership; or to harass or interfere with the Receiver in any way;
14 or to interfere in any manner with the exclusive jurisdiction of this Court over the
15 assets or documents of the Receivership Defendants; or to refuse to cooperate
16 with the Receiver or the Receiver's duly authorized agents in the exercise of their
17 duties or authority under any order of this Court.

18 This Section does not prohibit transfers to the Receiver, as specifically required in
19 Section X (Delivery of Receivership Property), nor does it prohibit the Repatriation of Foreign
20 Assets, as specifically required in Section V (Repatriation of Foreign Assets) of this Order.

21 **IX.**
22 **DUTIES AND AUTHORITY OF RECEIVER**

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

1 stored information or other documents maintained at that location; or (6)
2 requiring any persons present on the premises at the time this Order is served to
3 leave the premises, to provide the Receiver with proof of identification, and/or to
4 demonstrate to the satisfaction of the Receiver that such persons are not removing
5 from the premises documents or assets of the Receivership Defendants. Such
6 authority shall include, but not be limited to, the authority to order any owner,
7 director, or officer of any Receivership Defendants to leave the business
8 premises;

9 D. Conserve, hold, and manage all receivership assets, and perform all acts necessary
10 or advisable to preserve the value of those assets, in order to prevent any
11 irreparable loss, damage, or injury to consumers, including, but not limited to,
12 obtaining an accounting of the assets and preventing the transfer, withdrawal, or
13 misapplication of assets;

14 E. Enter into contracts and purchase insurance as advisable or necessary;

15 F. Prevent the inequitable distribution of assets and to determine, adjust, and protect
16 the interests of consumers and creditors who have transacted business with one or
17 more Receivership Defendants;

18 G. Manage and administer the business of the Receivership Defendants until further
19 order of this Court by performing all incidental acts that the Receiver deems to be
20 advisable or necessary, which includes retaining, hiring, or dismissing any
21 employees, independent contractors, or agents;

22 H. Choose, engage, and employ attorneys, accountants, appraisers, investigators, and
23 other independent contractors and technical specialists, as the Receiver deems
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1 agents or attorneys of the Receiver and by agents of any process server retained
2 by the Receiver;

- 3 O. Open one or more bank accounts as designated depositories for funds of the
4 Receivership Defendants. The Receiver shall deposit all funds of the
5 Receivership Defendants in such a designated account and shall make all
6 payments and disbursements from the receivership estate from such an account;
7 and
- 8 P. Maintain accurate records of all receipts and expenditures made by the Receiver.

9 **X.**
10 **DELIVERY OF RECEIVERSHIP PROPERTY**

11 **IT IS FURTHER ORDERED** that, to the extent not already delivered pursuant to the
12 TRO, the Defendants, including the Receivership Defendants, shall immediately deliver to the
13 Receiver possession and custody of:

- 14 A. All funds, assets, and property of the Receivership Defendants, whether situated
15 within or outside the territory of the United States, that are: (1) held by the
16 Receivership Defendants, (2) held for the benefit of the Receivership Defendants,
17 or (3) under the direct or indirect control, individually or jointly, of the
18 Receivership Defendants;
- 19 B. All documents of the Receivership Defendants, including but not limited to all
20 books and records of assets including funds and property, all financial and
21 accounting records, balance sheets, income statements, bank records (including
22 monthly statements, canceled checks, records of wire transfers, records of ACH
23 transactions, and check registers), corporate minutes, contracts, customer and
24 consumer lists, title documents, and electronic records;

1 C. All funds and other assets belonging to members of the public now held by the
2 Receivership Defendants;

3 D. All keys, computer and other passwords, entry codes, combinations to locks
4 required to open or gain access to any of the property or effects, and all monies in
5 any bank deposited to the credit of the Receivership Defendants, wherever
6 situated; and

7 E. Information identifying the accounts, employees, properties, or other assets or
8 obligations of the Receivership Defendants.

9 **XI.**
10 **TRANSFER OF FUNDS TO THE RECEIVER BY FINANCIAL**
11 **INSTITUTIONS AND OTHER THIRD PARTIES**

12 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order, any financial
13 or brokerage institution or depository, escrow agent, title company, commodity trading
14 company, payment processing company, or trust shall cooperate with all reasonable requests of
15 counsel for the FTC and the Receiver relating to implementation of this Order, including
16 transferring funds at the Receiver's direction and producing records related to the assets and
17 sales of the Receivership Defendants.

18 **XII.**
19 **RECEIVER'S REPORTS**

20 **IT IS FURTHER ORDERED** that the Receiver shall report to this Court within 60 days
21 of entry of this Order regarding: (1) the steps taken by the Receiver to implement the terms of
22 this Order; (2) the value of all liquidated and unliquidated assets of the Receivership Defendants;
23 (3) the sum of all liabilities of the Receivership Defendants; (4) the steps the Receiver intends to
24 take in the future to: (a) prevent any diminution in the value of assets of the Receivership
25 Defendants; (b) pursue receivership assets from third parties; and (c) adjust the liabilities of the

1 Receivership Defendants, if appropriate; and (5) any other matters which the Receiver believes
2 should be brought to the Court's attention. Provided, however, if any of the required
3 information would hinder the Receiver's ability to pursue receivership assets, the portions of the
4 Receiver's report containing such information may be filed under seal and not served on the
5 parties.

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7 **XIII.**
RECEIVER'S BOND

8 **IT IS FURTHER ORDERED** that the \$10,000 bond filed by the Receiver pursuant to
9 Section XIII of the Temporary Restraining Order issued on March 29, 2011 shall remain in
10 effect.

11 **XIV.**
COMPENSATION OF THE RECEIVER

12 **IT IS FURTHER ORDERED** that the Receiver, and all persons or entities retained or
13 hired by the Receiver as authorized under this Order, shall be entitled to reasonable
14 compensation for the performance of duties undertaken pursuant to this Order and for the cost of
15 actual out-of-pocket expenses incurred by them from the assets now held by or in the possession
16 or control of, or which may be received by, the Receivership Defendants. The Receiver shall file
17 with the Court and serve on the parties a request for the payment of reasonable compensation at
18 the time of the filing of any report required by Section XII. The Receiver shall not increase the
19 fees or rates used as the bases for such fee applications without prior approval of the Court.

20 **XV.**
ACCESS TO BUSINESS PREMISES AND RECORDS

21 **IT IS FURTHER ORDERED** that the Receiver shall allow the FTC and Defendants,
22 and their respective representatives, reasonable access to the premises of the Receivership
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1 Defendants. The purpose of this access shall be to inspect, inventory, and copy any documents
2 and other property owned by, or in the possession of, the Receivership Defendants, provided that
3 those documents and property are not removed from the premises without the permission of the
4 Receiver. The Receiver shall have the discretion to determine the time, manner, and reasonable
5 conditions of such access. If any computers, electronic data storage devices, or documents
6 containing information related to the business practices or finances of Defendants are at a
7 location other than those listed herein, including but not limited to, the personal residences of
8 Defendants, then, to the extent not already produced pursuant to the TRO, Defendants shall
9 immediately produce to the Receiver all such computers, electronic data storage devices, or
10 documents. In order to prevent the destruction of electronic data, any computers or other
11 electronic data storage devices containing such information shall be powered down (turned off)
12 in the normal course for the operating systems used on such devices and shall not be used until
13 produced for copying and inspection, along with any codes needed for access.

14 **XVI.**
15 **PRESERVATION OF RECORDS**

16 **IT IS FURTHER ORDERED** that Defendants, and each of their successors, assigns,
17 members, officers, agents, servants, employees, and attorneys, and those persons in active
18 concert or participation with them who receive actual notice of this Order by personal service or
19 otherwise, whether acting directly or through any entity, corporation, subsidiary, division,
20 affiliate or other device, are hereby restrained and enjoined from destroying, erasing, mutilating,
21 concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly,
22 any documents that relate to the business practices or finances of any Defendant, including, but
23 not limited to, any contracts, accounting data, correspondence, advertisements, computer tapes,
24 disks or other computerized records, books, written or printed records, handwritten notes,

1 recordings, telephone logs, telephone scripts, receipt books, ledgers, personal and business
2 canceled checks and check registers, bank statements, appointment books, copies of federal,
3 state, or local business or personal income or property tax returns.

4 **XVII.**
5 **PROHIBITION ON USE OF CUSTOMER INFORMATION**

6 **IT IS FURTHER ORDERED** that Defendants, and officers, agents, directors, servants,
7 employees, salespersons, and attorneys of Defendants, as well as all other persons or entities in
8 active concert or participation with them, who receive actual notice of this Order by personal
9 service or otherwise, whether acting directly or through any trust, corporation, subsidiary,
10 division, or other device, or any of them, are hereby restrained and enjoined from using,
11 benefitting from, selling, renting, leasing, transferring, or otherwise disclosing the name,
12 address, telephone number, email address, social security number, credit card number, debit card
13 number, bank account number, any financial account number, or any data that enables access to
14 a customer's account, or other identifying information of any person which any Defendant
15 obtained prior to entry of this Order in connection with the marketing or sale of any good or
16 service, including those who were contacted or are on a list to be contacted by any Defendant;
17 provided that Defendants may disclose such identifying information to a law enforcement
18 agency or as required by any law, regulation, or court order.

19 **XVIII.**
20 **CREDIT REPORTS**

21 **IT IS FURTHER ORDERED** that the FTC may obtain credit reports concerning any
22 Defendant pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §
23 1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports
24 are requested shall provide them to the FTC.

1 **XIX.**
2 **RECORDKEEPING/BUSINESS OPERATIONS**

3 **IT IS FURTHER ORDERED** that Defendants are hereby restrained and enjoined from:

- 4 A. Failing to create and maintain documents that, in reasonable detail, accurately,
5 fairly, and completely reflect their incomes, disbursements, transactions, and use
6 of money;
- 7 B. Creating, operating, or exercising any control over any business entity, including
8 any partnership, limited partnership, joint venture, sole proprietorship, limited
9 liability company or corporation, without first providing the Commission with a
10 written statement disclosing: (1) the name of the business entity; (2) the address
11 and telephone number of the business entity; (3) the names of the business
12 entity's officers, directors, principals, managers and employees; and (4) a detailed
13 description of the business entity's intended activities; and
- 14 C. Affiliating with, becoming employed by, or performing any work for any
15 business that is not a named Defendant in this action without first providing the
16 Commission with a written statement disclosing: (1) the name of the business; (2)
17 the address and telephone number of the business; and (3) a detailed description
18 of the nature of business or employment and the nature of the Defendant's duties
19 and responsibilities in connection with that business or employment.

20 **XX.**
21 **BANKRUPTCY PETITIONS**

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

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XXI.
STAY OF ACTIONS

IT IS FURTHER ORDERED that:

A. Except by leave of this Court, during the pendency of the Receivership ordered herein, the Receivership Defendants and all customers, principals, investors, creditors, stockholders, lessors, and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of the Receivership Defendants, and all others acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs, constables, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees be and are hereby stayed from:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
3. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process, whether specified in this Order or not; or
4. Doing any act or thing whatsoever to interfere with the Receiver's taking

1 custody, control, possession, or management of the assets or documents
2 subject to this receivership; or to harass or interfere with the Receiver in
3 any way; or to interfere in any manner with the exclusive jurisdiction of
4 this Court over the assets or documents of the Receivership Defendants;

5 B. This Section does not stay:

- 6 1. The commencement or continuation of a criminal action or proceeding;
- 7 2. The commencement or continuation of an action or proceeding by a
8 governmental unit to enforce such governmental unit's police or
9 regulatory power;
- 10 3. The enforcement of a judgment, other than a money judgment, obtained in
11 an action or proceeding by a governmental unit to enforce such
12 governmental unit's police or regulatory power; or
- 13 4. The issuance to any Receivership Defendant of a notice of tax deficiency.

14 **XXII.**
15 **EXPEDITED DISCOVERY**

16 **IT IS FURTHER ORDERED** that the FTC is granted leave to conduct certain
17 expedited asset discovery, and that, commencing with the time and date of this Order, in lieu of
18 the time periods, notice provisions, and other requirements of Rules 26, 30, 31, 33, and 34 of the
19 Federal Rules of Civil Procedure, expedited discovery as to parties and non-parties shall proceed
20 as follows:

- 21 A. The FTC may, upon seven (7) calendar days' notice, take the deposition,
22 including by telephone, of any person or entity, whether or not a party, in any
23 judicial district, for the purpose of discovering the nature, location, status, and
24 extent of the assets of Defendants, and Defendants' affiliates and subsidiaries.

1 **XXV.**
2 **PROOF OF DISTRIBUTION OF ORDER BY DEFENDANTS**

3 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this
4 Order to their agents, servants, employees, consultants, and any affiliated businesses, and other
5 persons and entities subject in any part to their direct or indirect control. Within five (5)
6 business days of receipt of this Order, Defendants must submit to counsel for the FTC a truthful
7 sworn statement identifying those persons and entities to whom this Order has been distributed.

8 **XXVI.**
9 **CORRESPONDENCE**

10 **IT IS FURTHER ORDERED** that, for the purposes of this Order, all correspondence
11 and service of pleadings on the FTC shall be addressed to:

12 Robin L. Moore
13 Benjamin J. Theisman
14 600 Pennsylvania Avenue, NW
15 Mailstop M-8102B
16 Washington, DC 20580
17 Telephone: (202) 326-2167, -2223
18 Fax: (202) 326-2558
19 Email: rmoore@ftc.gov, btheisman@ftc.gov

20 **XXVII.**
21 **RETENTION OF JURISDICTION**

22 **IT IS FURTHER ORDERED** that the Court shall continue to retain jurisdiction of this
23 matter for all purposes.

24 **IT IS SO ORDERED:**

25 
United States District Judge

this 15th day of April, 2011.