



SEALED

1 Willard K. Tom
General Counsel

2 Robin L. Moore
3 Benjamin J. Theisman
600 Pennsylvania Avenue, NW
4 Mailstop M-8102B
Washington, DC 20580
5 Telephone: (202) 326-2167, -2223
Fax: (202) 326-2558
6 Email: rmoore@ftc.gov, btheisman@ftc.gov

7 Blaine T. Welsh
Assistant United States Attorney
8 Nevada Bar No. 4790
333 Las Vegas Blvd. South, Suite 5000
9 Las Vegas, NV 89101
Telephone: (702) 388-6336
10 Fax: (702) 388-6787
Email: blaine.welsh@usdoj.gov

11 Attorneys for Plaintiff
12 Federal Trade Commission

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 **FEDERAL TRADE COMMISSION,**

16 **Plaintiff,**

17 **vs.**

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

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

BELFORT CAPITAL VENTURES, INC., a
corporation,

2:11-cv-00461-RLH -RJJ

[FILED UNDER SEAL]

1 **DYNAMIC ONLINE SOLUTIONS, LLC, a**
2 **limited liability company,**
3 **HSC LABS, INC., a corporation,**
4 **RED DUST STUDIOS, INC., a corporation,**
5 **SEASIDE VENTURES TRUST, individually**
6 **and as an officer and director of the corporate**
7 **defendants, and**
8 **JOHN DOE NO. 1, in his capacity as trustee of**
9 **Seaside Ventures Trust,**
10 **Defendants.**

10 **AMENDED**

11 **EX PARTE TEMPORARY RESTRAINING ORDER WITH ANCILLARY RELIEF**

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

18 **FINDINGS OF FACT**

19 The Court, having considered the Complaint, the Commission’s *Ex Parte* Motion for a
20 Temporary Restraining Order with Ancillary Equitable Relief Preliminary Injunction,
21 declarations and exhibits, and the memorandum of points and authorities filed in support thereof,
22 and being otherwise advised, finds as follows:

23 1. This Court has jurisdiction over the subject matter of this case, and there is good cause to
24 believe it will have jurisdiction over all parties hereto;

1 2. There is good cause to believe that venue lies properly with this Court;

2 3. There is good cause to believe that Defendants Michael Bruce Money maker, Daniel De
3 La Cruz, Belfort Capital Ventures, Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., Red
4 Dust Studios, Inc., Seaside Ventures Trust, and John Doe No. 1 (collectively, "Defendants"),
5 have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the
6 Federal Trade Commission Act;

7 4. There is good cause to believe that the Commission is likely to prevail on the merits of
8 this action. The evidence set forth in the Commission's Memorandum in Support of its *Ex Parte*
9 Motion for a Temporary Restraining Order with Ancillary Equitable Relief and a Preliminary
10 Injunction ("Memorandum"), and the accompanying declarations and exhibits, demonstrates that
11 Defendants have engaged in deceptive and unfair acts or practices in violation of Section 5 of the
12 FTC Act by acquiring consumer's bank account information when those consumers apply for
13 payday loans online and then, without notice to the consumers, debiting those consumers' bank
14 accounts. There is good cause to believe that Defendants will continue such illegal actions if not
15 restrained from doing so by Order of this Court;

16 5. There is good cause to believe that immediate and irreparable damage to this Court's
17 ability to grant effective final relief for consumers, including monetary restitution, rescission or
18 refunds, will occur from the sale, transfer, or other disposition by Defendants of their Assets or
19 company records, or those Assets and company records under their control, unless Defendants
20 are immediately restrained and enjoined by Order of this Court. There is thus good cause for an
21 asset freeze, the appointment of a Temporary Receiver over the Receivership Defendants, as
22 defined herein, immediate access to Defendants' business premises, and for relieving the FTC of
23 the duty to provide Defendants with prior notice of its motion. Based on the foregoing, there is
24

1 good cause to issue this order on an *ex parte* basis;

2 6. There is good cause for appointing a Temporary Receiver for Defendants Belfort Capital
3 Ventures, Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., and Red Dust Studios, Inc.;

4 7. Weighing the equities and considering the Commission's likelihood of ultimate success
5 on the merits, a Temporary Restraining Order with asset freeze and other equitable relief is in the
6 public interest;

7 8. There is good cause for issuing this Temporary Restraining Order pursuant to Rule 65(b)
8 of the Federal Rules of Civil Procedure; and

9 9. The FTC is an independent agency of the United States of America. No security is
10 required of any agency of the United States for the issuance of a Temporary Restraining Order.
11 Fed. R. Civ. P. 65(c).

12 DEFINITIONS

13 For the purposes of this Temporary Restraining Order, the following definitions apply:

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

19 2. "**Defendants**" means Michael Bruce Moneymaker, Daniel De La Cruz, Belfort Capital
20 Ventures, Inc., Dynamic Online Solutions, LLC, HSC Labs, Inc., Red Dust Studios, Inc., Seaside
21 Ventures Trust, and John Doe No. 1 in his capacity as trustee of Seaside Ventures Trust.

22 3. "**Document**" is synonymous in meaning and equal in scope to the terms "document" and
23 "electronically stored information," as described and used in Federal Rule of Civil Procedure
24

1 34(a)(1)(A).

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

3 5. **“Receivership Defendants”** means Belfort Capital Ventures, Inc., Dynamic Online
4 Solutions, LLC, HSC Labs, Inc., Red Dust Studios, Inc., and their subsidiaries, affiliates,
5 divisions, successors, and assigns, and includes fictitious names under which they do business,
6 including but not limited to Centralized Customer Service, Uniguard, Freedom Subscription,
7 Illustrious Perks, Select Platinum Credit, and Kryptonite Credit.

8 6. **“Temporary Receiver”** means the Temporary Receiver appointed in Section VII of this
9 Order. The term “Temporary Receiver” also includes any deputy receivers or agents as may be
10 named by the Temporary Receiver.

11 **I.**
12 **PROHIBITED BUSINESS ACTIVITIES**

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

- 19 A. Obtaining consumers’ bank account information or debiting those accounts
20 without consumers’ express informed consent;
- 21 B. Failing to disclose or disclose adequately that Defendants will charge consumers
22 when representing to consumers that third-party trial offers will be extended to
23 them; and
- 24 C. Making, or assisting others in the making of, expressly or by implication, any

1 material misrepresentations, including but not limited to:

- 2 1. That Defendants will use consumers' authorizations to further consumers'
3 their payday loan applications;
- 4 2. That consumers agreed:
- 5 a. to enroll in Defendants' continuity programs;
- 6 b. to pay charges associated with Defendants's continuity programs;
- 7 or
- 8 c. that they would be entitled to a refund for Defendants' continuity
9 programs only if they asked for a refund during the trial period; or
- 10 3. That Defendants will provide consumers refunds.

11 **II.**
12 **ASSET FREEZE**

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

- 15 A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling,
16 concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a
17 lien or security interest or other interest in, or otherwise disposing of any funds,
18 real or personal property, accounts, contracts, consumer lists, or any other assets,
19 or any interest therein, wherever located, including outside the United States, that
20 are:
- 21 1. owned or controlled, directly or indirectly, by any Defendant(s), in whole
22 or in part, or held, in whole or in part for the benefit of any Defendant(s);
- 23 2. in the actual or constructive possession of any Defendant(s);
- 24 3. owned, controlled by, or in the actual or constructive possession of any

1 corporation, partnership, or other entity directly or indirectly owned,
2 managed, or controlled by, or under common control with any
3 Defendant(s), including, but not limited to, any assets of Centralized
4 Customer Service, Uniguard, Freedom Subscription, Illustrious Perks,
5 Select Platinum Credit, Kryptonite Credit, or any other entity acting under
6 a fictitious name owned by or controlled by any Defendant(s), and any
7 assets held by, for, or under the name of any Defendant(s) at any bank,
8 savings and loan institution, or bank of any Defendant(s), or with any
9 broker-dealer, escrow agent, title company, commodity trading company,
10 payment processing company, precious metal dealer, or other financial
11 institution or depository of any kind;

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

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

16 D. Obtaining a personal or secured loan;

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

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

20 *Provided further*, that the assets affected by this Section shall include: (1) all assets of
21 Defendants as of the time this Order is entered; and (2) for assets obtained after the time this
22 Order is entered, those assets of Defendants that are derived, directly or indirectly, from the
23 Defendants' activities related to the marketing and sale of continuity programs as described in
24

1 the Commission's Complaint.

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

6 **III.**
7 **FINANCIAL REPORTS AND ACCOUNTING**

8 **IT IS FURTHER ORDERED** that each Defendant shall:

- 9 A. Prepare and serve on counsel for the FTC and the Temporary Receiver, within
10 three (3) business days after service of this Order, completed financial statements
11 fully disclosing the Defendants' finances and those of all corporations, limited
12 liability companies, partnerships, trusts or other entities that each Defendant
13 owns, controls, or is associated with in any capacity, jointly or individually, on
14 the forms attached to this Order as Attachments A and B, accurate as of the date
15 of service of this Order upon Defendants;
- 16 B. Prepare and serve on counsel for the FTC and the Temporary Receiver, within
17 three (3) business days after service of this Order, copies of signed and completed
18 federal and state income tax forms, including all schedules and attachments for
19 the three most recent filing years;
- 20 C. Provide access to records and documents held by financial institutions outside the
21 territory of the United States, by signing the Consent to Release of Financial
22 Records attached to this Order as Attachment C, immediately upon service of this
23 Order upon them; and
- 24 D. Provide copies of such other financial statements as the Temporary Receiver or

1 the FTC may request in order to monitor Defendants' compliance with the
2 provisions of this Order.

3 **IV.**
4 **RETENTION OF ASSETS AND RECORDS**
5 **BY FINANCIAL INSTITUTIONS AND THIRD PARTIES**

6 **IT IS FURTHER ORDERED** that any financial or brokerage institution or depository,
7 escrow agent, title company, commodity trading company, payment processing company, trust,
8 entity, or person that: (1) holds, controls, or maintains custody of any account or asset owned or
9 controlled by any Defendant(s); (2) holds, controls, or maintains custody of any asset associated
10 with credit or debit card charges, electronic fund transfers, or remotely created checks made by,
11 or on behalf of, any Defendant(s) or any other entity owned or controlled by any Defendant(s);
12 or (3) has held, controlled, or maintained any account or asset of, or on behalf of, any
13 Defendant(s) at any time since March 28, 2007, upon service with a copy of this Order, shall:

14 A. Hold and retain within its control and prohibit Defendants or any other person or
15 entity with control over such assets from withdrawing, removing, assigning,
16 transferring, pledging, encumbering, disbursing, dissipating, converting, selling,
17 gifting, or otherwise disposing of any such assets, funds, or other property,
18 except:

- 19 1. As directed by further order of the Court; or
20 2. As directed in writing by the Temporary Receiver (regarding assets held
21 in the name or for the benefit of Receivership Defendant).

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

1 C. Provide counsel for the FTC and the Temporary Receiver, within three (3)
2 business days after being served with a copy of this Order, a certified statement
3 setting forth:

- 4 1. The identification number of each such account or asset titled: (1) in the
5 name, individually or jointly, of any Defendant(s); (2) held on behalf of,
6 or for the benefit of, any Defendant(s); (3) owned or controlled by any
7 Defendant(s); or (4) otherwise subject to access by any Defendant(s),
8 directly or indirectly;
- 9 2. The balance of each such account, or a description of the nature and value
10 of such asset, as of the close of business on the day on which this Order is
11 served, and, if the account or other asset has been closed or removed, the
12 date closed or removed, the total funds removed in order to close the
13 account, and the name of the person or entity to whom such account or
14 other asset was remitted;
- 15 3. The identification of any safe deposit box that is either titled in the name
16 of any Defendant(s), or is otherwise subject to access by any
17 Defendant(s); and
- 18 4. If an account, safe deposit box, or other asset has been closed or removed,
19 the date closed or removed, the balance of any account or value of any
20 asset on such date, and the manner in which such account or asset was
21 closed or removed.

22 D. Provide counsel for the FTC and the Temporary Receiver, within three (3)
23 business days after being served with a request, copies of all documents
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

**VI.
NON-INTERFERENCE WITH REPATRIATION**

IT IS FURTHER ORDERED that Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive 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 temporarily restrained and enjoined from taking any action, directly or indirectly, that may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by Section V of this Order, including but not limited to:

- 21
22
23
24
25
- A. Sending any statement, letter, fax, e-mail, or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time that all assets have been fully repatriated pursuant to Section V of this Order; and
 - B. Notifying any trustee, protector, or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time that all assets have been fully repatriated pursuant to Section V of this Order.

**VII.
APPOINTMENT OF TEMPORARY RECEIVER**

IT IS FURTHER ORDERED that Robb Evans & Associates, LLC is appointed Temporary Receiver for the Receivership Defendants, and any affiliates or subsidiaries thereof controlled by any Receivership Defendant, with the full power of an equity Receiver. The

1 Temporary Receiver shall be the agent of this Court and solely the agent of this Court in acting
2 as Temporary Receiver under this Order. The Temporary Receiver shall be accountable directly
3 to this Court. The Temporary Receiver shall comply with all local rules and laws governing
4 federal equity receivers.

5
6 **VIII.**
COOPERATION WITH THE TEMPORARY RECEIVER

7 **IT IS FURTHER ORDERED** that Defendants shall fully cooperate with and assist the
8 Temporary Receiver. Defendants' cooperation and assistance shall include, but not be limited
9 to, providing any information to the Temporary Receiver that the Temporary Receiver deems
10 necessary to exercise the authority and discharge the responsibilities of the Temporary Receiver
11 under this Order; providing any login and password required to access any computer or
12 electronic files or information in any medium; and advising all persons who owe money to the
13 Receivership Defendants that all debts should be paid directly to the Temporary Receiver.

14 Defendants are hereby restrained and enjoined from directly or indirectly:

- 15 A. Transacting any of the business of the Receivership Defendants;
16 B. Excusing debts owed to the Receivership Defendants;
17 C. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of
18 any documents of the Receivership Defendants;
19 D. Transferring, receiving, altering, selling, encumbering, pledging, assigning,
20 liquidating, or otherwise disposing of any assets owned, controlled, or in the
21 possession or custody of, or in which an interest is held or claimed by, the
22 Receivership Defendants, or the Temporary Receiver;
23 E. Failing to notify the Temporary Receiver of any asset, including accounts, of the
24 Receivership Defendants held in any name other than the name of the

1 Receivership Defendants, or by any person or entity other than the Receivership
2 Defendants, or failing to provide any assistance or information requested by the
3 Temporary Receiver in connection with obtaining possession, custody, or control
4 of such assets; or

- 5 F. Doing any act or thing whatsoever to interfere with the Temporary Receiver's
6 taking and keeping custody, control, possession, or managing of the assets or
7 documents subject to this receivership; or to harass or interfere with the
8 Temporary Receiver in any way; or to interfere in any manner with the exclusive
9 jurisdiction of this Court over the assets or documents of the Receivership
10 Defendants; or to refuse to cooperate with the Temporary Receiver or the
11 Temporary Receiver's duly authorized agents in the exercise of their duties or
12 authority under any Order of this Court.

13 This Section does not prohibit transfers to the Temporary Receiver, as specifically
14 required in Section X (Delivery of Receivership Property), nor does it prohibit the Repatriation
15 of Foreign Assets, as specifically required in Section V (Repatriation of Foreign Assets) of this
16 Order.

17 **IX.**
18 **DUTIES AND AUTHORITY OF TEMPORARY RECEIVER**

19 **IT IS FURTHER ORDERED** that the Temporary Receiver is directed and authorized to
20 accomplish the following:

- 21 A. Assume full control of the Receivership Defendants by removing, as the
22 Temporary Receiver deems necessary or advisable, any director, officer,
23 independent contractor, employee, attorney, or agent of the Receivership
24 Defendants, including Defendants Michael Bruce Moneymaker, Daniel De La

1 Cruz, Seaside Ventures Trust, and John Doe No. 1, from control of, management
2 of, or participation in, the affairs of the Receivership Defendants.

3 B. Take exclusive custody, control, and possession of all assets and documents of, or
4 in the possession, custody, or under the control of, the Receivership Defendants,
5 wherever situated. The Temporary Receiver shall have full power to divert mail
6 and to sue for, collect, receive, take possession of, hold, and manage all assets and
7 documents of the Receivership Defendants and other persons or entities whose
8 interests are now held by or under the direction, possession, custody, or control of
9 the Receivership Defendants.

10 C. Take all steps necessary to secure the business premises of the Receivership
11 Defendants, which may include, but are not limited to, taking the following steps
12 as the Temporary Receiver deems necessary or advisable: (1) serving and filing
13 this Order; (2) completing a written inventory of all receivership assets; (3)
14 obtaining pertinent information from all employees and other agents of the
15 Receivership Defendants, including, but not limited to, the name, home address,
16 social security number, job description, method of compensation, and all accrued
17 and unpaid commissions and compensation of each such employee or agent; (4)
18 video-recording all portions of the location; (5) changing the locks and
19 disconnecting any computer networks or other means of access to electronically
20 stored information or other documents maintained at that location; or (6)
21 requiring any persons present on the premises at the time this Order is served to
22 leave the premises, to provide the Temporary Receiver with proof of
23 identification, and/or to demonstrate to the satisfaction of the Temporary Receiver
24

1 that such persons are not removing from the premises documents or assets of the
2 Receivership Defendants. Such authority shall include, but not be limited to, the
3 authority to order any owner, director, or officer of any Receivership Defendants
4 to leave the business premises.

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

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

11 F. Prevent the inequitable distribution of assets and to determine, adjust, and protect
12 the interests of consumers and creditors who have transacted business with one or
13 more Receivership Defendants.

14 G. Manage and administer the business of the Receivership Defendants until further
15 order of this Court by performing all incidental acts that the Temporary Receiver
16 deems to be advisable or necessary, which includes retaining, hiring, or
17 dismissing any employees, independent contractors, or agents.

18 H. Choose, engage, and employ attorneys, accountants, appraisers, investigators, and
19 other independent contractors and technical specialists, as the Temporary
20 Receiver deems advisable or necessary in the performance of duties and
21 responsibilities.

22 I. Make payments and disbursements from the receivership estate that are necessary
23 or advisable for carrying out the directions of, or exercising the authority granted
24

1 by, this Order. The Temporary Receiver shall apply to the Court for prior
2 approval of any payment of any debt or obligation incurred by the Receivership
3 Defendant prior to the date of entry of this Order, except payments that the
4 Temporary Receiver deems necessary or advisable to secure assets of the
5 Receivership Defendant, such as rental payments.

6 J. Collect any money due or owing to the Receivership Defendants.

7 K. Institute, compromise, adjust, appear in, intervene in, or become party to such
8 actions or proceedings in state, federal or foreign courts that the Temporary
9 Receiver deems necessary and advisable to preserve or recover the assets of the
10 Receivership Defendants or to carry out the Temporary Receiver's mandate under
11 this Order.

12 L. Defend, compromise, adjust, or otherwise dispose of any or all actions or
13 proceedings instituted against the Receivership Defendants or the Temporary
14 Receiver that the Temporary Receiver deems necessary and advisable to preserve
15 the assets of the Receivership Defendants or to carry out the Temporary
16 Receiver's mandate under this Order.

17 M. Continue and conduct the businesses of the Receivership Defendants in such
18 manner, to such extent, and for such duration as the Temporary Receiver may in
19 good faith deem to be necessary or appropriate to operate the businesses
20 profitably, using the assets of the receivership estate, and lawfully, if at all.

21 N. Take depositions and issue subpoenas to obtain documents and records pertaining
22 to the receivership and compliance with this Order. Subpoenas may be served by
23 agents or attorneys of the Temporary Receiver and by agents of any process
24

1 server retained by the Temporary Receiver.

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

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

10 **IT IS FURTHER ORDERED** that immediately upon service of this Order upon them,
11 the Defendants, including the Receivership Defendants, shall forthwith or within such time as
12 permitted by the Temporary Receiver in writing, deliver to the Temporary Receiver possession
13 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 Defendant, wherever
6 situated; and
- 7 E. Information identifying the accounts, employees, properties, or other assets or
8 obligations of the Receivership Defendant.

9 **XI.**
10 **TRANSFER OF FUNDS TO THE TEMPORARY 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 Temporary Receiver relating to implementation of this Order,
16 including transferring funds at the Temporary Receiver's direction and producing records related
17 to the assets and sales of the Receivership Defendants.

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

20 **IT IS FURTHER ORDERED** that the Temporary Receiver shall report to this Court on
21 or before the date set for the hearing to Show Cause regarding the Preliminary Injunction,
22 regarding: (1) the steps taken by the Temporary Receiver to implement the terms of this Order;
23 (2) the value of all liquidated and unliquidated assets of the Receivership Defendants; (3) the
24 sum of all liabilities of the Receivership Defendants; (4) the steps the Temporary Receiver
25 intends to take in the future to: (a) prevent any diminution in the value of assets of the

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

7 **XIII.**
8 **TEMPORARY RECEIVER'S BOND**

9 **IT IS FURTHER ORDERED** that the Temporary Receiver shall file with the Clerk of
10 this Court a bond in the sum of \$ 10,000 with sureties to be approved by the Court, conditioned
11 that the Temporary Receiver will well and truly perform the duties of the office and abide by and
12 perform all acts the Court directs.

13 **XIV.**
14 **COMPENSATION OF THE TEMPORARY RECEIVER**

15 **IT IS FURTHER ORDERED** that the Temporary Receiver, and all persons or entities
16 retained or hired by the Temporary Receiver as authorized under this Order, shall be entitled to
17 reasonable compensation for the performance of duties undertaken pursuant to this Order and for
18 the cost of actual out-of-pocket expenses incurred by them from the assets now held by or in the
19 possession or control of, or which may be received by, the Receivership Defendants. The
20 Temporary Receiver shall file with the Court and serve on the parties a request for the payment
21 of reasonable compensation at the time of the filing of any report required by Section XII. The
22 Temporary Receiver shall not increase the fees or rates used as the bases for such fee
23 applications without prior approval of the Court.
24
25

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

IT IS FURTHER ORDERED that the FTC and the Receiver, and their representatives, agents, and assistants, shall have immediate access to all business premises and storage facilities, owned, controlled, or used by Defendants, including but not limited to the offices and facilities of the Receivership Defendants at or in the vicinity of 8668 Spring Mountain Road, Las Vegas, Nevada 89117, and any offsite commercial mail boxes used by the Receivership Defendants. The FTC and the Receiver are authorized to employ the assistance of law enforcement officers as they deem necessary to effect service and peacefully implement this Order. The FTC and the Receiver may exclude Defendants and Defendants' employees from the business premises during the immediate access. The purpose of the immediate access shall be to effect service and to inspect and copy documents and electronic data, including but not limited to, correspondence, emails, financial data, and other documents concerning Defendants' business practices and assets.

- A. The FTC and the Receiver and their representatives, agents, and assistants, shall have the right to remove documents from the above-listed premises in order that they may be inspected, inventoried, and copied.
- B. The FTC shall return any removed documents to the Receiver within five (5) business days, or such time as is agreed upon by the FTC and the Receiver.
- C. Defendants and all employees or agents of Defendants shall provide the FTC and the Receiver with any necessary means of access to documents and records, including, without limitation, the locations of Defendants' business premises, keys and combinations to locks, computer access codes, and storage area access information.

1 D. If any computers or other electronic data storage devices containing information
2 related to the business practices or finances of the Defendants are at a location
3 other than those listed herein, including but not limited to, the personal residences
4 of the Defendants, then immediately upon service of this Order upon them
5 Defendants shall produce to the Receiver all such computers and other electronic
6 data storage devices. In order to prevent the destruction of electronic data, upon
7 service of this Order upon Defendants, any computers or other electronic data
8 storage devices containing such information shall be powered down (turned off)
9 in the normal course for the operating systems used on such devices and shall not
10 be used until produced for copying and inspection, along with any codes needed
11 for access.

12 E. Within forty-eight (48) hours of service of this Order each Defendant shall
13 produce to the Receiver a list of all agents, employees, officers, servants and
14 those persons in active concert and participation with them, who have been
15 associated or done business with the Receivership Defendants.

16 **XVI.**
17 **DEFENDANTS' ACCESS TO BUSINESS PREMISES AND RECORDS**

18 **IT IS FURTHER ORDERED** that the Temporary Receiver shall allow the Defendants
19 and their representatives reasonable access to the premises of the Receivership Defendants. The
20 purpose of this access shall be to inspect, inventory, and copy any documents and other property
21 owned by, or in the possession of, the Receivership Defendants, provided that those documents
22 and property are not removed from the premises without the permission of the Temporary
23 Receiver. The Temporary Receiver shall have the discretion to determine the time, manner, and
24 reasonable conditions of such access.

1
2
3
4
5
6
7
8
9
10
11
12
13
14

**XVII.
PRESERVATION OF RECORDS**

IT IS FURTHER ORDERED that Defendants, and each of their successors, assigns, members, officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive 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 temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or finances of any Defendant, including, but not limited to, any contracts, accounting data, correspondence, advertisements, computer tapes, disks or other computerized records, books, written or printed records, handwritten notes, recordings, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, or local business or personal income or property tax returns.

15
16
17
18
19
20
21
22
23
24
25

**XVIII.
PROHIBITION ON USE OF CUSTOMER INFORMATION**

IT IS FURTHER ORDERED that Defendants, and officers, agents, directors, servants, employees, salespersons, and attorneys of Defendants, as well as all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby temporarily restrained and enjoined from using, benefitting from, selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, email address, social security number, credit card number, debit card number, bank account number, any financial account number, or any data that enables access to

1 a customer's account, or other identifying information of any person which any Defendant
2 obtained prior to entry of this Order in connection with the marketing or sale of any good or
3 service, including those who were contacted or are on a list to be contacted by any of the
4 Defendants; provided that Defendants may disclose such identifying information to a law
5 enforcement agency or as required by any law, regulation, or court order.

6 **XIX.**
7 **CREDIT REPORTS**

8 **IT IS FURTHER ORDERED** that the FTC may obtain credit reports concerning any of
9 the Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §
10 1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports
11 are requested shall provide them to the FTC.

12 **XX.**
13 **RECORDKEEPING/BUSINESS OPERATIONS**

14 **IT IS FURTHER ORDERED** that Defendants are hereby temporarily restrained and
15 enjoined from:

- 16 A. Failing to create and maintain documents that, in reasonable detail, accurately,
17 fairly, and completely reflect their incomes, disbursements, transactions, and use
18 of money;
- 19 B. Creating, operating, or exercising any control over any business entity, including
20 any partnership, limited partnership, joint venture, sole proprietorship, limited
21 liability company or corporation, without first providing the Commission with a
22 written statement disclosing: (1) the name of the business entity; (2) the address
23 and telephone number of the business entity; (3) the names of the business
24 entity's officers, directors, principals, managers and employees; and (4) a detailed

1 description of the business entity's intended activities; and

- 2 C. Affiliating with, becoming employed by, or performing any work for any
3 business that is not a named Defendant in this action without first providing the
4 Commission with a written statement disclosing: (1) the name of the business; (2)
5 the address and telephone number of the business; and (3) a detailed description
6 of the nature of business or employment and the nature of the Defendant's duties
7 and responsibilities in connection with that business or employment.

8 **XXI.**
9 **BANKRUPTCY PETITIONS**

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

14 **XXII.**
15 **STAY OF ACTIONS**

16 **IT IS FURTHER ORDERED** that:

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

- 1 1. Commencing, prosecuting, continuing, entering, or enforcing any suit or
2 proceeding, except that such actions may be filed to toll any applicable
3 statute of limitations;
- 4 2. Accelerating the due date of any obligation or claimed obligation; filing or
5 enforcing any lien; taking or attempting to take possession, custody, or
6 control of any asset; attempting to foreclose, forfeit, alter, or terminate any
7 interest in any asset, whether such acts are part of a judicial proceeding,
8 are acts of self-help, or otherwise;
- 9 3. Executing, issuing, serving, or causing the execution, issuance or service
10 of, any legal process, including, but not limited to, attachments,
11 garnishments, subpoenas, writs of replevin, writs of execution, or any
12 other form of process, whether specified in this Order or not; or
- 13 4. Doing any act or thing whatsoever to interfere with the Temporary
14 Receiver's taking custody, control, possession, or management of the
15 assets or documents subject to this receivership; or to harass or interfere
16 with the Temporary Receiver in any way; or to interfere in any manner
17 with the exclusive jurisdiction of this Court over the assets or documents
18 of the Receivership Defendant.

19 B. This Section does not stay:

- 20 1. The commencement or continuation of a criminal action or proceeding;
- 21 2. The commencement or continuation of an action or proceeding by a
22 governmental unit to enforce such governmental unit's police or
23 regulatory power;

- 1 3. The enforcement of a judgment, other than a money judgment, obtained in
2 an action or proceeding by a governmental unit to enforce such
3 governmental unit's police or regulatory power; or
4 4. The issuance to the Receivership Defendant of a notice of tax deficiency.

5 **XXIII.**
6 **SERVICE OF ORDER**

7 **IT IS FURTHER ORDERED** that copies of this Order may be served by any means,
8 including facsimile transmission or email, by employees or agents of the FTC or the Temporary
9 Receiver, upon any financial institution or other entity or person that may have possession,
10 custody, or control of any documents or assets of Defendants, or that may otherwise be subject
11 to any provision of this Order. Service upon any branch or office of any financial institution
12 shall effect service upon the entire financial institution.

13 **XXIV.**
14 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

15 **IT IS FURTHER ORDERED** that each Defendant, within three (3) business days of
16 receipt of this Order, must submit to counsel for the FTC a truthful sworn statement
17 acknowledging receipt of this Order.

18 **XXV.**
19 **PROOF OF DISTRIBUTION OF ORDER BY DEFENDANTS**

20 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this
21 Order to their agents, servants, employees, consultants, and any affiliated businesses, and other
22 persons and entities subject in any part to their direct or indirect control. Within five (5)
23 business days of receipt of this Order, Defendants must submit to counsel for the FTC a truthful
24 sworn statement identifying those persons and entities to whom this Order has been distributed.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**XXVI.
CORRESPONDENCE**

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

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

**XXVII.
EXPEDITED DISCOVERY**

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

- A. The FTC may, upon three (3) calendar days notice, take the deposition, including by telephone, of any person or entity, whether or not a party, in any judicial district, for the purpose of discovering the nature, location, status, and extent of the assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of Documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' identities and whereabouts; and/or the applicability of any evidentiary privileges to this action. Deposition transcripts that have not been

1 signed by the witness may be used at the preliminary injunction hearing in this
2 matter. Provided that, notwithstanding Fed. R. Civ. P. 30(a)(2), this Section shall
3 not preclude any future depositions by the FTC. Provided further, that any
4 deposition taken pursuant to this Section shall be in addition to, and not subject
5 to, the presumptive limits on depositions set forth in Fed. R. Civ. P. 30(a)(2)(A).

6 B. The FTC may serve interrogatories for the purpose of discovering the nature,
7 location, status, and extent of the assets of Defendants, and Defendants' affiliates
8 and subsidiaries; the nature and location of Documents reflecting the business
9 transactions of Defendants, and Defendants' affiliates and subsidiaries; the
10 location of any premises where Defendants, directly or through any third party,
11 conduct business operations; the Defendants' identities and whereabouts; and/or
12 the applicability of any evidentiary privileges to this action. Defendants shall
13 respond within five (5) calendar days after the FTC serves such interrogatories.
14 Provided that, notwithstanding Fed. R. Civ. P. 33(a)(1), this Subsection shall not
15 preclude any future interrogatories by the FTC.

16 C. The FTC may serve requests for the production of Documents from any person,
17 whether or not a party, relating to the nature, location, status, and extent of the
18 assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and
19 location of Documents reflecting the business transactions of Defendants, and
20 Defendants' affiliates and subsidiaries; the location of any premises where
21 Defendants, directly or through any third party, conduct business operations; the
22 Defendants' identities and whereabouts; and/or the applicability of any
23 evidentiary privileges to this action.

1 D. The FTC may, upon five (5) calendar days' notice, including through the use of a
2 Rule 45 Subpoena, demand the production of documents from any person or
3 entity, whether or not a Defendant, relating to the nature, location, status, and
4 extent of the assets of Defendants, and Defendants' affiliates and subsidiaries; the
5 nature and location of Documents reflecting the business transactions of
6 Defendants, and Defendants' affiliates and subsidiaries; the location of any
7 premises where Defendants, directly or through any third party, conduct business
8 operations; the Defendants' identities and whereabouts; and/or the applicability of
9 any evidentiary privileges to this action. Provided that two (2) calendar days
10 notice shall be deemed sufficient for the production of any such documents that
11 are maintained or stored only as electronic data.

12 For purposes of discovery pursuant to this Section, service shall be sufficient if made by
13 facsimile, electronic mail, or by overnight courier.

14 **XXVIII.**

15 **ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

16 **IT IS FURTHER ORDERED**, pursuant to Fed. R. Civ. P. 65(b), that Defendants shall
17 appear on the 12th day of April, 2011, at the hour of 2:00 pm at the United States
18 Courthouse, Courtroom 6A, Las Vegas, Nevada, to show cause, if any there be, why this Court
19 should not enter a preliminary injunction pending final ruling on the Complaint against
20 Defendants, enjoining them from further violations of Section 5(a) of the Federal Trade
21 Commission Act, continuing the freeze of their assets, appointing a permanent receiver and
22 imposing such additional relief as may be appropriate.
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**XXIX.
DURATION OF ORDER**

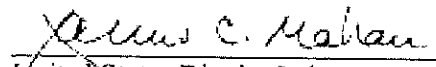
IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on the 12th day of April, 2011, at the hour of 2:00 pm unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed fourteen (14) calendar days, or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

**XXX.
RETENTION OF JURISDICTION**

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

Opposition due April 5, 2011.
Reply due April 8, 2011.

IT IS SO ORDERED:


United States District Judge

this 29th day of March, 2011, at
1:30 pm