

**ROBB EVANS OF  
ROBB EVANS & ASSOCIATES LLC  
Receiver of I Works, Inc., et al. and  
the Assets of Jeremy Johnson**

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**Federal Trade Commission v. Jeremy Johnson, I Works, Inc., et al.  
CASE No. 2:10-CV-02203-MMD-GWF**

**Stipulation and Request for Entry of Order for Turnover of Funds  
from Sunfirst Bank Account; and Order Thereon**

**Filed October 24, 2013**

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10 Attorneys for Receiver  
**ROBB EVANS OF ROBB EVANS & ASSOCIATES**  
11 **LLC**

12 **UNITED STATES DISTRICT COURT**

13  
14 **DISTRICT OF NEVADA**

15 FEDERAL TRADE COMMISSION,  
16 Plaintiff,  
17 v.  
18 JEREMY JOHNSON, etc., et al.,  
19 Defendants.

Case No. 2:10-CV-02203-MMD-GWF

**STIPULATION AND REQUEST FOR  
ENTRY OF ORDER FOR TURNOVER  
OF FUNDS FROM SUNFIRST BANK  
ACCOUNT; AND ORDER THEREON**

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21  
22 Robb Evans of Robb Evans & Associates LLC ("Receiver"), the Receiver pursuant to the  
23 Preliminary Injunction Order issued February 10, 2011, and Touchpoint LLC ("Touchpoint"),  
24 hereby make this Stipulation and Request for Entry of Order for Turnover of Funds from SunFirst  
25 Bank Account ("Stipulation") in reference to the following.

26 A. On January 13, 2011, the Court issued its Temporary Restraining Order in this  
27 action which, among other provisions, appointed the Receiver as temporary receiver over I Works,  
28 Inc. ("I Works"), over the other named Corporate Defendants and their subsidiaries, affiliates,

1 successors and assigns, and over the assets of Jeremy Johnson (collectively, the "Receivership  
2 Defendants").

3 B. On February 10, 2011, the Court issued its Preliminary Injunction Order pursuant  
4 to which the Receiver was appointed permanent receiver over the Receivership Defendants.

5 C. On November 4, 2011, the Utah Department of Financial Institutions closed  
6 SunFirst and appointed the FDIC as its receiver. On the same date, the FDIC accepted the  
7 appointment as receiver pursuant to 12 U.S.C. § 1821(c)(3)(A). As receiver for SunFirst, and by  
8 express operation of law, the FDIC "succeed[ed] to. . . all rights, titles, powers, and privileges. . .  
9 and the assets of the institution." 12 U.S.C. § 1821(d)(2)(A)(i). As a result, the FDIC is the  
10 holder of and has custody of the account which is the subject of this Stipulation described in  
11 Recital E, below.

12 D. As of the commencement of the FTC receivership, SunFirst Bank ("SunFirst") held  
13 various bank accounts which were opened in connection with third party payment processing  
14 services in which Elite Debit, Inc. ("Elite Debit") rendered merchant processing services for third  
15 party merchants and SunFirst was the merchant bank. Elite Debit is a Receivership Defendant  
16 under the Preliminary Injunction Order.

17 E. Touchpoint was one merchant that utilized Elite Debit for its third party payment  
18 processing services. In connection therewith, Touchpoint, doing business as 800-895-0431  
19 Clickwit, and also doing business as 800-895-0435 Clickwit, opened up a bank account at  
20 SunFirst ending in account no. 7958 ("Touchpoint Account"). The balance in the Touchpoint  
21 Account is \$113,667.76.

22 F. As of the inception of the receivership estate, Touchpoint owed Elite Debit  
23 \$74,518.76 in connection with payment processing services rendered by Elite Debit on behalf of  
24 Touchpoint. Pursuant to the Preliminary Injunction Order, the Receiver is authorized and directed  
25 to collect all sums owed to Elite Debit in his capacity as Receiver for Elite Debit, including the  
26 sums owed by Touchpoint.

27 G. Based on the foregoing, the Receiver and Touchpoint have reached an agreement  
28 for disposition of the Touchpoint Account and satisfaction of the Receiver's claim against

1 Touchpoint, as more particularly set forth below.

2 NOW THEREFORE, in reference to and in consideration of the foregoing, the parties  
3 hereto do stipulate and agree:

4 1. Not later than ten business days following entry of an Order by the Court approving  
5 this Stipulation, the FDIC shall turn over to the Receiver \$74,518.76 and shall turn over to  
6 Touchpoint \$39,149.00 from the funds in the Touchpoint Account. The payment to the Receiver  
7 shall satisfy in full all sums owed by Touchpoint to Elite Debit and the Receiver.

8 2. The FDIC's turnover of the funds in the Touchpoint Account as provided in this  
9 Stipulation shall be made by wire transfer to the Receiver pursuant to wire transfer instructions  
10 previously provided by the Receiver to the FDIC and by wire transfer to Touchpoint pursuant to  
11 wire transfer instructions to be provided by Touchpoint to the FDIC.

12 3. The Receiver continues to reserve all of his rights and claims to funds in any other  
13 accounts of SunFirst currently held by the FDIC that have not been resolved by this Stipulation  
14 and by any prior order of the Court heretofore entered in this action.

15 WHEREFORE, the Receiver and Touchpoint pray this Honorable Court endorse this  
16 Stipulation and enter the Order thereon set forth below.


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Dated: October 22, 2013

RANDOLPH L. HOWARD  
KOLESAR & LEATHAM, CHTD.

MCKENNA LONG & ALDRIDGE LLP  
GARY OWEN CARIS  
LESLEY ANNE HAWES

By:   
\_\_\_\_\_  
Gary Owen Caris  
Lesley Anne Hawes


Attorneys for Receiver  
**ROBB EVANS OF ROBB EVANS &  
ASSOCIATES LLC**

Dated: October 22, 2013

TOUCHPOINT, LLC

By:   
\_\_\_\_\_  
Brian D. Jensen  
Sole Member and Manager

IT IS SO ORDERED.

  
\_\_\_\_\_  
MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE

Dated: October 24, 2013