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1 Alan M. Mirman, Esq. (State Bar No. 66883)  
2 MIRMAN, BUBMAN & NAHMIAS, LLP  
21860 Burbank Blvd., Suite 360  
3 Woodland Hills, California 91367  
Tel: (818) 451-4600  
4 Fax: (888) 451-7624

5 Attorneys for Plaintiff  
Gottbetter Capital Master, Ltd.

**ORIGINAL FILED**  
Los Angeles Superior Court

**FEB 16 2010**

John A. Clarke, Clerk  
by Sahak Guladzhyan, Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF**  
9 **LOS ANGELES, NORTHWEST DISTRICT, VAN NUYS COURTHOUSE EAST**

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11 GOTTBETTER CAPITAL MASTER, LTD., ) CASE NO. **LC089277**

12 )  
13 Plaintiff, )

14 vs. )

15 VERTICAL BRANDING, INC., )  
16 a Delaware Corporation; and )  
DOES 1 through 100, )

17 Defendants. )  
18 )  
19 )

**EX PARTE ORDER**  
**APPOINTING RECEIVER AND ISSUING**  
**PRELIMINARY INJUNCTION IN AID OF**  
**THE RECEIVER**

EX PARTE HEARING:  
DATE: February 16, 2010  
TIME: 8:30 a.m.  
DEPT: "T"

20 The Court, having considered the Complaint filed in this case,  
21 the Ex Parte Application for Appointment of Receiver and Issuance of  
22 Preliminary Injunction in Aid of the Receiver ("Application"), the  
23 Memorandum of Points and Authorities and declarations filed in  
24 support thereof, the Stipulation to Order Appointing Receiver and  
25 Issuing Preliminary Injunction in Aid of the Receiver, and oral  
26 argument at the hearing on the Application, and good cause appearing  
27 therefore, now orders as follows:  
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1 APPOINTMENT OF RECEIVER

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3 1. Robb Evans & Associates, LLC shall be immediately appointed as  
4 receiver in this action ("Receiver") to take over the possession,  
5 custody, and control of the property, assets, equipment, accounts  
6 receivable, business accounts, real property rent, tangible and  
7 intangible assets, furniture and other collateral ("Property")  
8 belonging to Defendant Vertical Branding, Inc. ("Vertical").  
9 Defendant is located and doing business at the following location:  
10 16000 Ventura Boulevard, Suite 301, Encino, California 91436 and or  
11 12100 Wilshire Boulevard, Suite 800, Los Angeles, California 90025  
12 ("Vertical's Office").

13 2. Before entering upon his duties as a Receiver, the Receiver  
14 shall take the oath and file a bond with a corporate surety thereon  
15 approved by this Court in the amount of \$10,000, to secure the  
16 faithful performance of his duties as the Receiver.

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18 3. The Receiver is also required to disclose to all parties any  
19 financial relationship between the Receiver and any company he hires  
20 to assist him in his management of the receivership estate.

21 4. The Receiver's appointment is contingent on the filing by  
22 Plaintiff Gottbetter Capital Master, Ltd. ("Gottbetter") of an  
23 undertaking in the amount of \$2,500 in the proper form pursuant to  
24 Section 566 of the Code of Civil Procedure.

25 5. Because Vertical and Gottbetter have stipulated to the  
26 appointment of a receiver and the issuance of a preliminary  
27 injunction in the aid of the receiver in the form of this Order,  
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1 this Court has determined that there is no need for a noticed  
2 hearing to confirm the appointment of the receiver and issuance of  
3 injunctive relief in aid of the receiver, and the requirement for  
4 such a hearing is hereby waived.

5 **POWERS AND RESPONSIBILITIES OF THE RECEIVER**

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7 6. Upon appointment, the Receiver shall have the following powers  
8 and responsibilities:

9 a. To enter, gain access and take possession of the Property  
10 and Vertical's Office;

11 b. To receive the rents and profits from the Property, to  
12 care for, preserve, protect, and maintain Vertical's Office and  
13 the Property; to incur the expenses necessary for such care,  
14 preservation, maintenance, and protection; and do all things  
15 done by, and to incur the risks and obligations ordinarily  
16 incurred by, owners, managers, and operators of similar  
17 businesses and properties, including, but not limited to,  
18 winding down and discontinuing those parts of Vertical's  
19 business that are no longer producing income. No risks or  
20 obligations so incurred shall be at the personal risk or  
21 obligation of the Receiver, and/or his designated  
22 representative, but shall be a risk or obligation of the  
23 receivership estate;

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25 c. To demand, collect and receive all monies, funds and  
26 payments, including, but not limited to, royalty payments,  
27 which may be due to Vertical (and any monies, funds and  
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1 payments in possession of any of its subsidiaries, affiliates  
2 and controlled entities as to any funds in which Vertical has  
3 an interest) at the time of this Order and any time thereafter;

4 d. To take any and all steps necessary to receive, collect  
5 and review all mail addressed to Vertical, including, but not  
6 limited to, mail addressed to each and every one of Vertical's  
7 employees, and any post office boxes held in the name of  
8 Vertical, and at the Receiver's discretion, he is authorized to  
9 instruct the U.S. Postmaster to re-route, hold or release said  
10 mail to said Receiver. Mail reviewed by the Receiver in the  
11 performance of his duties will promptly be made available for  
12 inspection to Vertical after review by the Receiver;

13  
14 e. To take possession of all bank accounts of Vertical and  
15 chattel paper, wherever located and receive possession of any  
16 money on deposit in said bank accounts, and the receipt by the  
17 Receiver for said funds shall discharge said bank from further  
18 responsibility for accounting to said account holder for funds  
19 for which the Receiver shall give his receipt;

20 f. To establish bank accounts at any bank the Receiver deems  
21 appropriate for the deposit of monies and funds collected and  
22 received in connection with his administration of the  
23 receivership estate, provided that all funds on deposit are  
24 insured by an agency of the United States government;

25  
26 g. To execute and prepare all documents and perform all acts,  
27 either in the name of Vertical, as is applicable, or in the  
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1 Receiver's own name, which are necessary and incidental to  
2 preserving, protecting, managing and controlling the Property.  
3 The Receiver will not, under any circumstances, be personally  
4 liable for any obligations incurred as a result of the exercise  
5 of this provision but instead, said obligation shall be the  
6 obligations of the receivership estate;

7  
8 h. To take possession of all the books and records of  
9 Vertical wherever located, as the Receiver, and/or his  
10 designated representative, deems necessary for the property  
11 administration, management, and/or control of the estate;

12 i. The monies coming into possession of the Receiver and not  
13 expended for any of the purposes herein authorized, shall be  
14 paid over by the Receiver to Gottbetter for the payment of  
15 Vertical's obligations to Gottbetter sued upon in the  
16 Complaint, subject however to (a) a reserve to cover  
17 anticipated administrative expenses of the receivership,  
18 including but not limited to fees and costs of the Receiver and  
19 his professionals; (b) the payment of specific obligations of  
20 Vertical that Gottbetter has agreed shall be paid in  
21 conjunction with payments to Gottbetter; and (c) to such orders  
22 as this Court may hereinafter issue;

23  
24 j. To employ servants, agents, employees, appraisers, guards,  
25 clerks, accountants, attorneys and management consultants to  
26 administer the receivership estate and to protect the  
27 receivership estate as the Receiver deems necessary; to

1 purchase insurance, materials, supplies and services and to pay  
2 therefore at the usual rate and prices out of funds that shall  
3 come into his possession; to pay reasonable value of said  
4 services out of the proceeds of the estate; and that no risk or  
5 obligation incurred by said Receiver shall be the personal risk  
6 or obligation of the Receiver, but shall be the risk or  
7 obligation of the receivership estate;

8  
9 k. To employ Craig Welin and his law firm, Frandzel Robins  
10 Bloom & Csato, L.C., as the Receiver's attorneys in connection  
11 with the above-entitled case, effective as of January 21, 2010.  
12 Mr. Welin's hourly rate is \$395, and that of his partner Hal  
13 Goldflam is \$315. The hourly rate for associates whom Mr.  
14 Welin expects may be needed to render services on behalf of the  
15 Receiver is between \$235 and \$295.

16 l. Vertical shall notify the Receiver upon the Receiver's  
17 taking possession of the receivership estate whether or not  
18 there is sufficient insurance coverage on the Property. If  
19 sufficient insurance coverage does exist, Vertical shall be  
20 responsible and is hereby ordered to name the Receiver as  
21 additional insured on the insurance policy(ies) for the period  
22 that the Receiver shall be in possession of the Property. If  
23 there is insufficient insurance coverage, it is hereby ordered  
24 that the Receiver shall have thirty (30) working days to  
25 procure said insurance on the Property, provided that the  
26 Receiver has funds available to do so, and during said period  
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1 the Receiver shall not be personally responsible for claims  
2 arising or the for the procurement of insurance;

3 m. To prepare periodic interim statements reflecting the  
4 Receiver's fees and administrative costs and expenses incurred  
5 for said period in the operation and administration of the  
6 receivership estate. If the Receiver does not receive a  
7 written objection to the statement within ten days of mailing  
8 said statement to the parties' respective attorneys of record  
9 or any other designated personal agent, the Receiver shall pay  
10 from the estate funds, if any, the amount of said statement.  
11 Despite the periodic statement of Receiver's fees and  
12 administrative expenses, such fees and expenses shall be  
13 submitted to the Court for its approval and confirmation, in  
14 the form of either a noticed interim request for fees or a  
15 Receiver's final account and report;

16 n. To institute ancillary proceedings in this State or other  
17 states and countries as is necessary to preserve and protect  
18 the receivership estate. The Receiver may pay for the costs of  
19 such proceedings from the funds of the receivership estate;

20 o. To the extent feasible, the Receiver shall, within 30 days  
21 of his qualification hereunder, file in this action an  
22 inventory of all property of which he has taken possession  
23 pursuant to this Order and shall conduct periodic accountings  
24 thereafter; and  
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1 p. The Receiver, or any party to this action, may from time  
2 to time, and on due notice to all parties, make application to  
3 this Court for further orders instructing said Receiver.

4 **PRELIMINARY INJUNCTION IN AID OF RECEIVER**

5 7. Vertical and its officers, directors, agents, servants, and  
6 employees, and all persons or entities acting under, or in  
7 consort with them, or for them, are enjoined from the following  
8 and are restrained and enjoined from engaging in, or performing  
9 directly or indirectly, any or all of the foregoing acts:

10 a. Interfering, hindering or molesting in any way whatsoever  
11 the Receiver in the performance of the Receiver's duties herein  
12 described and in the performance of any duties incident  
13 thereto;

14 b. Transferring, directly or indirectly, any interest by  
15 sale, pledge, grant of security interest, assignment, invoice  
16 or encumbering in any manner the Property, and all proceeds and  
17 products thereof;

18 c. Moving the physical location of the materials and/or  
19 equipment of Vertical from any location where it is presently  
20 located, and all proceeds and products thereof;

21 d. Transferring, concealing, destroying, defacing, or  
22 altering any of Vertical's books and records;

23 e. Diverting in any way of the proceeds from the accounts  
24 receivable and/or inventory;



1 f. Causing any mail to be forwarded to any address other than  
2 the post office box or business address supplied by the  
3 Receiver; and

4 g. Failing or refusing to immediately turn over the Receiver  
5 all monies, checks, funds or proceeds relating to the Property,  
6 and failing to make available to the Receiver for inspection  
7 and copying all non-privileged books and records relating to  
8 the Property.

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10 8. Except by leave of this Court, during the pendency of the  
11 receivership ordered herein, Vertical and all customers,  
12 principals, investors, collectors, stockholders, lessors,  
13 creditors and other persons seeking to establish or enforce any  
14 claim, right or interest against or on behalf of Vertical, or  
15 any of its subsidiaries or affiliates, and all others acting  
16 for or on behalf of such persons, including attorneys,  
17 trustees, agents, sheriffs, constables, marshals and other  
18 officers and their deputies, and their respective attorneys,  
19 agents, servants, and employees be and are hereby stayed from:

20 a. Commencing, prosecuting, continuing or enforcing any  
21 lawsuit, claim or proceeding against Vertical, or any of its  
22 subsidiaries or affiliates, except as to the filing, but not  
23 the continued prosecution, of such actions as may be filed to  
24 toll any applicable statutes of limitations. This stay on  
25 litigation and claims includes, but is not limited to, the  
26 lawsuit entitled American Shipping Company, Inc. v. Vertical  
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1 Branding, et al. (case no. NC053457), pending in the Los  
2 Angeles Superior Court;

3 b. Commencing, prosecuting, continuing or entering into any  
4 suit or proceeding in the name of or on behalf of Vertical, or  
5 any of its subsidiaries or affiliates;

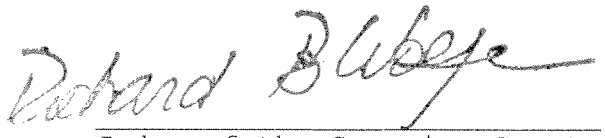
6 c. Accelerating the due date of any obligation or claimed  
7 obligation, enforcing any lien upon, or taking or attempting to  
8 take possession of, or retaining possession of, any property of  
9 Vertical, or any of its subsidiaries or affiliates, or any  
10 property claimed by any of them or attempting to foreclose,  
11 forfeit, alter, or terminate any of Vertical's or any of its  
12 subsidiaries' or affiliates' interest in property, including,  
13 without limitation, the establishment, granting or perfection  
14 of any security interest, whether such acts are part of a  
15 judicial proceeding or otherwise;

16 d. Using self-help or executing or issuing, or causing the  
17 execution or issuance of any court attachment, subpoena,  
18 replevin, execution or other process for the purpose of  
19 impounding or taking possession of or interfering with, or  
20 creating or enforcing a lien upon any property, wheresoever  
21 located, owned by or in the possession of Vertical or any of  
22 its subsidiaries or affiliates, or the Receiver appointed  
23 pursuant to this Order or any agent appointed by said Receiver;  
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e. Doing any action or thing whatsoever to interfere with the Receiver taking control, possession or management of the Property or any other property subject to this receivership or to in any way interfere in any manner with the Receiver, or to harass or interfere with the Receiver, or to harass or interfere with the duties of the Receiver, or to interfere in any manner with the exclusive jurisdiction of this Court over the property and assets of Vertical, or its subsidiaries or affiliates. Provided however, nothing in this paragraph shall prohibit any federal or state law enforcement or regulatory authority from commencing or prosecuting an action against Vertical, or its subsidiaries or affiliates.

DATED: FEB 16 2010



Judge of the Superior Court

RICHARD B. WOLFE  
JUDGE