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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

BUNZAI MEDIA GROUP, INC., et
al.

Defendants.

Case No. CV 15-4527-GW(PLAx)

**PRELIMINARY INJUNCTION
ORDER WITH ASSET FREEZE,
APPOINTMENT OF
PERMANENT RECEIVER AND
OTHER EQUITABLE RELIEF AS
TO DEFENDANTS IGOR
LATSANOVSKI AND
CALENERGY, INC.**

Plaintiff, Federal Trade Commission (FTC), filed its Complaint for a Permanent Injunction and Other Equitable Relief, seeking a temporary, preliminary, and permanent injunction to stop Defendants from violating Section 5(a) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 45(a), Section 5 of the Restore Online Shoppers' Confidence Act (ROSCA), 15 U.S.C. § 8404,

(PROPOSED) PRELIMINARY INJUNCTION

1 and Section 917(c) of the Electronic Fund Transfer Act (EFTA), 15 U.S.C.
2 § 1693o(c), while advertising, marketing, promoting, or offering for sale skincare
3 products. On June 17, 2015, following an on-the-record hearing, the Court issued
4 an *ex parte* temporary restraining order with an asset freeze, appointment of a
5 temporary receiver, and an order to show cause why a preliminary injunction
6 should not issue. Defendants were served with the summons, Complaint, *Ex Parte*
7 Temporary Restraining Order with Asset Freeze, Appointment of Temporary
8 Receiver, and other Equitable Relief, and Order to Show Cause Why a
9 Preliminary Injunction Should Not Issue, Plaintiff Federal Trade Commission's
10 Memorandum in Support of *Ex Parte* Application for a Temporary Restraining
11 Order and Other Equitable Relief and Order to Show Cause Why a Preliminary
12 Injunction Should Not Issue, and other related papers.

13 After hearings on August 6 and August 24, 2015, and with due
14 consideration of the FTC's pleading and declarations, exhibits, and memoranda in
15 support, as well as all responsive pleadings and accompanying documents, this
16 Court finds that:

17 **FINDINGS**

18 1. This Court has jurisdiction over the subject matter of this case and
19 jurisdiction over the parties, and venue in this district is proper.

1 2. The complaint states a claim upon which relief may be granted under
2 Sections 5, 13, and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and
3 under 15 U.S.C. §§ 8404 and 1693o(c).

4 3. Section 13(b) of the FTC Act allows this Court to grant the FTC a
5 preliminary injunction upon a showing that, weighing the equities and considering
6 the FTC’s likelihood of ultimate success, a preliminary injunction is in the public
7 interest. 15 U.S.C. § 53(b). Section 19 of the FTC Act allows this Court to grant
8 such relief as the Court finds necessary to redress injury to consumers resulting
9 from the violation of any rule enforced by the FTC. 15 U.S.C. § 57.

10 4. In deciding whether to grant preliminary relief, the Court must,
11 therefore: (a) consider the likelihood that the FTC will ultimately succeed on the
12 merits; and (b) balance the equities. *FTC v. Affordable Media, LLC*, 179 F.3d
13 1228, 1233 (9th Cir. 1999). The FTC “need not show irreparable harm to obtain a
14 preliminary injunction.” *Id.* at 1233 (quoting *FTC v. Warner Commc’ns, Inc.*, 742
15 F.2d 1156, 1159 (9th Cir. 1984)).

16 5. There is good cause to believe that Defendants have engaged in, and
17 are likely to engage in, acts or practices that violate Section 5(a) of the FTC Act,
18 ROSCA, and EFTA and Regulation E, and that the Plaintiff is likely to succeed on
19 the merits of this action.

1 6. There is good cause to believe that immediate and irreparable harm
2 will result from Defendants' ongoing violations of Section 5(a) of the FTC Act,
3 ROSCA, and EFTA, unless Defendants are restrained and enjoined by Order of
4 this Court.

5 7. There is good cause to believe that immediate and irreparable
6 damage to the Court's ability to grant effective final relief to consumers –
7 including rescission or reformation of contracts, restitution, the refund of monies
8 paid, and the disgorgement of ill-gotten monies – will occur from the sale,
9 transfer, or other disposition or concealment by Defendants of assets or records,
10 and that therefore in accordance with Federal Rule of Civil Procedure 65(b), the
11 interest of justice requires that this Order be granted.

12 8. There is good cause to believe that this Preliminary Injunction is in
13 the public interest, and no private interest of Defendants outweighs the public
14 interest.

15 9. Weighing the equities and considering the FTC's likelihood of
16 ultimate success, this Preliminary Injunction with asset freeze, appointment of a
17 Permanent Receiver, and other equitable relief is in the public interest.

18 10. The United States, its officers, and its agencies are not required to
19 give security for issuance of a restraining order. Fed. R. Civ. P. 65(c).

1 **DEFINITIONS**

2 For the purposes of this Order, the following definitions apply:

3 1. **“Asset” or “Assets”** means any legal or equitable right, title, interest,
4 or claim to any item of economic value, in whole or part, whether tangible or
5 intangible, including but not limited to: accounts, accounts receivables, cash,
6 certificates of deposit, chattels, checks, commodities, contracts, credits, currency,
7 fixtures, funds, equipment, income, intellectual property, inventory, instruments,
8 investments, leaseholds, lines of credit, mail, notes, personal property, real
9 property, revenues, securities, shares of stock, or trusts, whether located within or
10 outside the United States.

11 2. **“Clear(ly) and Conspicuous(ly)”** means that a required disclosure is
12 difficult to miss (*i.e.*, easily noticeable) and easily understandable by ordinary
13 consumers, including in all of the following ways:

14 a. In any communication that is solely visual or solely audible,
15 the disclosure must be made through the same means through which the
16 communication is presented. In any communication made through both
17 visual and audible means, such as a television advertisement, the disclosure
18 must be presented simultaneously in both the visual and audible portions of
19 the communication even if the representation requiring the disclosure is
20 made in only one means.

1 b. A visual disclosure, by its size, contrast, location, the length of
2 time it appears, and other characteristics, must stand out from any
3 accompanying text or other visual elements so that it is easily noticed, read,
4 and understood.

5 c. An audible disclosure, including by telephone or streaming
6 video, must be delivered in a volume, speed, and cadence sufficient for
7 ordinary consumers to easily hear and understand it.

8 d. In any communication using an interactive electronic medium,
9 such as the Internet or software, the disclosure must be unavoidable.

10 e. On a product label, the disclosure must be presented on the
11 principal display panel.

12 f. The disclosure must use diction and syntax understandable to
13 ordinary consumers and must appear in each language in which the
14 representation that requires the disclosure appears.

15 g. The disclosure must comply with these requirements in each
16 medium through which it is received, including all electronic devices and
17 face-to-face communications.

18 h. The disclosure must not be contradicted or mitigated by, or
19 inconsistent with, anything else in the communication.
20

1 i. When the representation or sales practice targets a specific
2 audience, such as children, the elderly, or the terminally ill, “ordinary
3 consumers” includes reasonable members.

4 3. “**Continuity Plan**” means any plan, arrangement, or system in
5 which a consumer is periodically charged for products or services *without* prior
6 notification by the seller before each charge.

7 4. “**Defendants**” means all of the Individual Defendants and Corporate
8 Defendants, individually, collectively, or in any combination.

9 a. “**Individual Defendant**” means Igor Latsanovski.

10 b. “**Corporate Defendant**” or “**Receivership Defendant**” means
11 CalEnergy, Inc. and their successors and assigns, as well as any
12 subsidiaries, fictitious business entities, or business names created or used
13 by these entities or by the Individual Defendants that are related to, or
14 receive funds from, the sale of skincare or other products online.

15 5. “**Document**” means the complete original and any non-identical
16 copy (whether different from the original because of notations or otherwise) of
17 any **electronically stored information** or filmed, graphic, imaged, printed,
18 punched, texted, transcribed, typed, written, matter of every type and description,
19 including but not limited to writings, drawings, graphs, charts, photographs, sound
20 records, images, and other data or data compilations that are stored in any medium

1 from which information can be obtained either directly or indirectly or, if
2 necessary, translated into a reasonably usable form.

3 6. **“Electronic Fund Transfer”** means any transfer of funds, other than
4 a transaction originated by check, draft, or similar paper instrument, which is
5 initiated through an electronic terminal, telephonic instrument, or computer or
6 magnetic tape so as to order, instruct, or authorize a financial institution to debit or
7 credit an account. Such term includes point-of-sale transfers, automated teller
8 machine transactions, direct deposits or withdrawals of funds, and transfers
9 initiated by telephone. Such term does not include:

10 a. Any check guarantee or authorization service that does not
11 directly result in a debit or credit to a consumer’s account;

12 b. Any transfer of funds, other than those processed by automated
13 clearinghouse, made by a financial institution on behalf of a consumer by
14 means of a service that transfers funds held at either Federal Reserve banks
15 or other depository institutions and that is not designed primarily to transfer
16 funds on behalf of a consumer;

17 c. Any transaction the primary purpose of which is the purchase
18 or sale of securities or commodities through a broker-dealer registered with
19 or regulated by the Securities and Exchange Commission;

1 d. Any automatic transfer from a savings account to a demand
2 deposit account pursuant to an agreement between a consumer and a
3 financial institution for the purpose of covering an overdraft or maintaining
4 an agreed upon minimum balance in the consumer's demand deposit
5 account; or

6 e. Any transfer of funds which is initiated by a telephone
7 conversation between a consumer and an officer or employee of a financial
8 institution which is not pursuant to a prearranged plan and under which
9 periodic or recurring transfers are not contemplated.

10 7. **“Financial Institution”** means an insured bank; a commercial bank
11 or trust company; a private banker; an agency or branch of a foreign bank; a credit
12 union; a thrift institution; a broker or dealer registered with the Securities and
13 Exchange Commission; a broker or dealer in securities or commodities; an
14 investment banker or investment company; a currency exchange; an issuer,
15 redeemer, or cashier of travelers' checks, checks, money orders, or similar
16 instruments; an operator of a credit card system; an insurance company; a dealer
17 in precious metals, stones, or jewels; a pawnbroker; a loan or finance company; a
18 licensed sender of money or any other person who engages as a business in the
19 transmission of funds, including any person who engages as a business in an
20 informal money transfer system or any network of people who engage as a

1 business in facilitating the transfer of money domestically or internationally
2 outside of the conventional financial institutions system; a telegraph company; a
3 business engaged in vehicle sales, including automobile, airplane, and boat sales;
4 persons involved in real estate closings and settlements; the United States Postal
5 Service; a casino, gambling casino, or gaming establishment.

6 8. “**Material**” means likely to affect a person’s choice of, or conduct
7 regarding, goods or services.

8 9. “**Negative Option**” means, in an offer or agreement to sell or provide
9 any good or service, a provision under which the consumer’s silence or failure to
10 take an affirmative action to reject a good or service or to cancel the agreement is
11 interpreted by the seller or provider as acceptance or continuing acceptance of the
12 offer or agreement.

13 10. “**Person**” means a natural person, an organization or other legal
14 entity, including an association, cooperative, corporation, limited liability
15 company, partnership, sole proprietorship, or any other group or combination
16 acting as an entity.

17 11. “**Plaintiff**” or “**FTC**” means the Federal Trade Commission.

18 12. “**Preauthorized Electronic Fund Transfer**” means an electronic
19 fund transfer authorized in advance to recur at substantially regular intervals.

20 13. “**Permanent Receiver**” means the receiver appointed in Section XIII

1 of this Order and any deputy receivers that shall be named by the Permanent
2 Receiver.

3 **ORDER**

4 **I. PROHIBITED BUSINESS ACTIVITIES**

5 **IT IS HEREBY ORDERED** that Individual and Corporate Defendants and
6 their officers, agents, employees, and attorneys, and all other persons in active
7 concert or participation with any of them, who receive actual notice of this Order,
8 whether acting directly or indirectly, in connection with the sale of any good or
9 service, are preliminarily restrained and enjoined from:

10 A. Failing to disclose or disclose clearly and conspicuously, or assisting
11 others in failing to disclose clearly and conspicuously, all material terms and
12 conditions of their offer, including:

13 1. That Defendants will use consumers' credit card or financial
14 account information to charge consumers the full costs of a product upon
15 the expiration of a limited trial period;

16 2. The dates that any trial period begins and ends;

17 3. That Defendants will enroll consumers into a negative option
18 continuity plan with additional charges;

19 4. The cost of any continuity plan and the frequency and duration
20 of recurring charges;

1 5. The means consumers must use to cancel the negative option
2 program and to avoid additional charges; and

3 6. Requirements of their refund policies.

4 B. Misrepresenting, or assisting others in misrepresenting, directly or
5 indirectly, expressly or by implication, any material fact, including that:

6 1. Consumers can obtain an advertised product for “free,”
7 “risk-free,” or for only a nominal shipping and handling fee; and

8 2. Defendants are accredited by and have a rating of “A-” with
9 the Better Business Bureau; and

10 C. Charging, causing to be charged, or assisting others in charging any
11 consumer’s credit card, or debiting, causing to be debited, or assisting others in
12 debiting any consumer’s financial account, without the consumer’s express
13 informed consent for each charge or debit.

14 **II. PROHIBITIONS AGAINST UNFAIR AND DECEPTIVE**
15 **NEGATIVE OPTION MARKETING PRACTICES ON THE**
16 **INTERNET**

17 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
18 and their officers, agents, employees, and attorneys, and all other persons in active
19 concert or participation with any of them, who receive actual notice of this Order,
20 whether acting directly or indirectly, in connection with the sale of any good or
service are preliminarily restrained and enjoined from charging, causing to be

1 charged, assisting others in charging , or attempting to charge any consumer in an
2 Internet-based sale of a good or service sold through a negative option without:

3 A. Clearly and conspicuously disclosing all material terms of the
4 negative option features before obtaining the consumer’s billing information;

5 B. Obtaining a consumer’s express informed consent to the negative
6 option features before making any charge; and

7 C. Providing a simple mechanism for a consumer to stop recurring
8 charges from being placed on the consumer’s credit card, debit card, or other
9 financial account.

10 **III. PROHIBITIONS AGAINST DEBITING CONSUMERS’ BANK
11 ACCOUNTS WITHOUT AUTHORIZATION**

12 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
13 and their officers, agents, employees, and attorneys, and all other persons in active
14 concert or participation with any of them, who receive actual notice of this Order,
15 whether acting directly or indirectly, in connection with the sale of any good or
16 service, are preliminarily restrained and enjoined from:

17 A. Failing to timely obtain written authorization signed or similarly
18 authenticated by the consumer for any Preauthorized Electronic Fund Transfer
19 from a consumer’s account before initiating any Preauthorized Electronic Fund
20 Transfer; and

B. Failing to provide to the consumer a copy of a valid written

1 authorization signed or similarly authenticated by the consumer for any
2 Preauthorized Electronic Fund Transfer from a consumer's account.

3 **IV. ASSET FREEZE**

4 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
5 and their officers, agents, employees, and attorneys, and all other persons in active
6 concert or participation with any of them, who receive actual notice of this Order,
7 whether acting directly or indirectly, are preliminarily restrained and enjoined
8 from directly or indirectly:

9 A. Assigning, concealing, converting, disbursing, dissipating,
10 encumbering, liquidating, loaning, pledging, selling, spending, transferring, or
11 withdrawing any asset that is:

- 12 1. owned, controlled by, or held for the benefit of, any Defendant,
13 directly or indirectly;
- 14 2. in the actual or constructive possession of any Defendant;
- 15 3. held as a retainer or deposit for the provision of goods or
16 services to any Defendant; or
- 17 4. owned, controlled by, held for the benefit of, or in the actual or
18 constructive possession, of any entity directly or indirectly owned,
19 managed, or controlled by any Defendant;

1 B. Opening or causing to be opened any safe deposit box, commercial
2 mail box, or storage facility belonging to, for the use or benefit of, under the
3 control of, or subject to access by, any Defendant;

4 C. Incurring charges or cash advances on any credit card, debit card, or
5 checking card issued in the name, singly or jointly, of any Defendant;

6 D. Obtaining or providing a personal or secured loan that encumbers an
7 asset of any Defendant; and

8 E. Cashing any checks or depositing any money orders or cash received
9 from consumers, clients, or customers of any Defendant.

10 F. *Provided, however,* that the following properties may be sold by
11 Defendants at any price which exceeds the outstanding loan amounts on the
12 property or upon FTC approval or at the fair market value as determined by an
13 independent third party appraiser:

- 14 1. 1737 W 35th St., Los Angeles 90018 (“35th St”)
- 15 2. 657 W Acacia Ave., El Segundo 90245 (“Acacia”)
- 16 3. 21809-21811 Figueroa St., Carson, CA 90745 (“Figueroa”)
- 17 4. 3214 W 113th St., Inglewood, CA 90304 (“113th St”)
- 18 5. 5624 Stratford Rd., Los Angeles, CA 90042 (“Stratford”)
- 19 6. 1032 W 22nd St., Los Angeles (USC), CA 90007 (“22nd St”)
- 20 7. 2445 Louella Ave., Venice, CA 90029 (“Louella”)

1 8. 3777 Rosewood Ave., Los Angeles, CA 90066 (“Rosewood”)

2 9. 3783 Redwood Ave, Los Angeles, CA 90066 (“Redwood”)

3 10. 430 W. San Antonio Dr., Long Beach, CA 90807 (“Long
4 Beach”)

5 If Defendants wish to sell any of the above-listed properties for a sale
6 price below the outstanding loan amounts on the property, Defendants must
7 submit the proposed sale price to the FTC with an invoice for services to be
8 provided by a mutually agreed third party appraiser. The FTC will then authorize
9 a release of funds to pay the agreed-upon appraiser from Sunset’s funds. Upon
10 receipt of the appraisal, the FTC shall have five business days to file a notice of
11 objection of sale with the Court. If the FTC does not object within that time,
12 Defendants may sell the property at the proposed sale price. If the FTC objects,
13 Defendants may request an *ex parte* order from the Court to permit the sale of the
14 property, which the FTC may oppose. If any property sells for under the
15 outstanding loan amount, the closing costs associated with the sale may be paid
16 from proceeds from the sale of the property. However, if the property is sold for
17 more than the loan amount, closing costs shall be paid from the sales proceeds
18 exceeding the outstanding loan amount.

19 G. All proceeds from the sale of the 35th St, Acacia, Figueroa, 113th St,
20 Stratford, 22nd St, Louella, Rosewood, Redwood and Long Beach (collectively

1 the “Properties”) will remain frozen until further order of the Court or upon
2 stipulation of the parties, except as follows:

3 1. Upon the sale of 35th St, any proceeds over \$300,000 shall not be
4 subject to this freeze and shall be released to Sunset Holding Partners LLC
5 (“Sunset”).

6 2. Upon the sale of Acacia, any proceeds over \$800,000 shall not be
7 subject to this freeze and shall be released to Sunset.

8 3. Upon the sale of Figueroa, any proceeds over \$1,100,000 shall not be
9 subject to this freeze and shall be released to Sunset.

10 4. Upon the sale of 113th St, any proceeds over \$300,000 shall not be
11 subject to this freeze and shall be released to Sunset.

12 5. Upon the sale of Stratford, any proceeds over \$600,000 shall not be
13 subject to this freeze and shall be released to Sunset.

14 6. Upon the sale of 22nd St, any proceeds over \$450,000 shall not be
15 subject to this freeze and shall be released to Sunset.

16 7. Upon the sale of Louella, any proceeds over \$1,218,000 shall not be
17 subject to this freeze and shall be released to Sunset.

18 8. Upon the sale of Rosewood, any proceeds over \$1,100,000 shall not
19 be subject to this freeze and shall be released to Sunset.

1 9. Upon the sale of Redwood, any proceeds over \$1,100,000 shall not
2 be subject to this freeze and shall be released to Sunset.

3 10. Upon the sale of Long Beach, any proceeds over \$1,000,000 shall not
4 be subject to this freeze and shall be released to Sunset.

5 H. The proceeds subject to the asset freeze from the above-listed
6 properties shall be placed in the Wells Fargo account in the name of Sunset
7 Holding Partners LLC ending in 9222.

8 I. Within five business days of the real estate closing of the Properties,
9 Defendants must provide the FTC all closing documents.

10 J. The assets affected by this Section shall include all assets of
11 Defendants as of the time this order is entered. *Provided, however,* that assets
12 obtained by Individual Defendants or Receivership Defendants after the time this
13 Order is entered that are not derived, directly or indirectly, from activities as
14 described in the Commission's Complaint shall not be frozen. Notwithstanding
15 the provisions in this Section, Defendants may seek, and the FTC may oppose,
16 modifications of this asset freeze at any time, including but not limited to requests
17 for disbursements from the Sunset funds subject to this asset freeze and requests
18 for a monthly disbursement to pay ordinary living expenses, including his
19 mortgage payments, as well as reasonable attorneys' fees. **All provisions in this**

1 **Section shall remain in effect until further Order of the Court or upon**
2 **agreement of the parties.**

3 **V. DUTIES OF ASSET HOLDERS**

4 **IT IS FURTHER ORDERED** that any financial institution or person that
5 has, or that at any time since January 1, 2010, has had, custody or control over an
6 asset belonging to, for the use or benefit of, under the control of or subject to
7 access by any Defendant and that is provided with a copy of this Order, or
8 otherwise has actual or constructive knowledge of this Order shall:

9 A. Hold and retain any of Defendants' assets that are within its control
10 and prohibit Defendants from assigning, concealing, converting, disbursing,
11 dissipating, encumbering, liquidating, loaning, pledging, selling, spending,
12 transferring, or withdrawing any asset except:

- 13 1. as directed by further order of the Court;
- 14 2. as directed in writing by the Permanent Receiver (regarding an
15 asset belonging to, for the use or benefit of, under the control of, or subject
16 to access by a Receivership Defendant); or
- 17 3. by written stipulation of the Plaintiff;

18 B. Deny Defendants access to any safe deposit box, commercial mail
19 box, or storage facility belonging to, for the use or benefit of, under the control of,
20 or subject to access by, any Defendant;

1 C. Within five (5) business days after receiving a copy of this Order,
2 provide counsel for Plaintiff and the Permanent Receiver a certified statement
3 setting forth:

4 1. the identification number of each account or asset belonging
5 to, for the use or benefit of, under the control of, or subject to access by,
6 any Defendant; and

7 2. the balance of each account, or a description of the nature and
8 value of such asset as of the close of business on the day on which this
9 Order is received, and, if the account or other asset has been closed or
10 removed, or more than \$1,000 withdrawn or transferred from it, the date of
11 the closure or removal of funds, the total funds removed or transferred, and
12 the name of the person to whom such account or other asset was remitted;
13 and

14 D. Within five (5) days of a request by Plaintiff or the Permanent
15 Receiver, provide Plaintiff and the Permanent Receiver with copies of documents
16 relating to each asset, including, but not limited to, account applications,
17 statements, signature cards, checks, drafts, deposit tickets, transfers to and from
18 the accounts, all other debit and credit instruments or slips, currency transaction
19 reports, 1099 forms, and safe deposit box logs.

20 **VI. SERVICE ON FINANCIAL INSTITUTIONS OR PERSONS
HOLDING ASSETS**

1 **IT IS FURTHER ORDERED** that copies of this Order may be served by
2 any means, including U.S. first class mail, overnight delivery, facsimile, electronic
3 mail, or personally by agents or employees of the Plaintiff or the Permanent
4 Receiver, by any law enforcement agency, or by process server, upon any person
5 or financial institution that may have possession, custody, or control over any
6 asset or document belonging to, for the use or benefit of, under the control of, or
7 subject to access by, any Defendant, or that may otherwise be subject to any
8 provision of this Order. Service upon any branch or office of any financial
9 institution shall effect service upon the entire financial institution.

10 **VII. FINANCIAL STATEMENTS**

11 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
12 shall each:

13 A. Within five (5) days after service of this Order, prepare and provide
14 to Plaintiff and the Permanent Receiver complete and accurate financial
15 statements, on the forms attached as **Attachments A** and **B** of this Order,
16 disclosing all personal assets and all assets of corporations, partnerships, trusts or
17 other entities that such Defendant owns or controls, jointly or individually;

18 B. Within five (5) business days after service of this Order, prepare and
19 provide to Plaintiff and the Permanent Receiver complete and accurate copies of
20

1 federal and state income tax forms, including all schedules and attachments for the
2 three most recent filing years; and

3 C. Immediately upon service of this Order, provide access to documents
4 held by persons and financial institutions located outside the United States by
5 signing the Consent to Release of Financial Records, attached to this Order as
6 **Attachment C.**

7 **VIII. REPATRIATION OF ASSETS AND DOCUMENTS**

8 **IT IS FURTHER ORDERED** that immediately upon service of this
9 Order, each Individual and Corporate Defendant shall:

10 A. Take such steps as are necessary to transfer to the United States all
11 assets and documents that are located outside the United States and belong to, are
12 for the use or benefit of, are under the control of, or are subject to access by, any
13 such Defendant; and

14 B. Hold and retain all repatriated assets and prevent and disposition,
15 transfer, or dissipation of such assets except as required by this Order.

16 **IX. NONINTERFERENCE WITH REPATRIATION**

17 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
18 and their officers, agents, employees, and attorneys, and all other persons in active
19 concert or participation with any of them who receive actual notice of this Order,
20 whether acting directly or indirectly, are preliminarily restrained and enjoined

1 from taking any action that may result in the encumbrance or dissipation of
2 foreign assets, or in the hindrance of the repatriation required by Section VIII of
3 this Order, including:

4 A. Sending any statement, letter, fax, email or wire transmission,
5 telephoning, or engaging in any other act, directly or indirectly, that results in a
6 determination by a foreign trustee or other entity that a “duress” event has
7 occurred under the terms of a foreign trust agreement until such time as all assets
8 have been fully repatriated according to Section VIII of this Order; or

9 B. Notifying any trustee, protector, or other agent of any of the
10 Defendants of the existence of this Order, or of the fact that repatriation is
11 required under a Court Order, until such time as all assets have been fully
12 repatriated according to Section VIII of this Order.

13 **X. CONSUMER CREDIT REPORTS**

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

1 **XI. PRESERVATION OF RECORDS AND REPORT NEW**
2 **BUSINESS ACTIVITY**

3 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
4 and their officers, agents, employees, and attorneys, and all other persons in active
5 concert or participation with any of them, who receive actual notice of this Order,
6 whether acting directly or indirectly, are hereby preliminarily restrained and
7 enjoined from:

8 A. Altering, concealing, destroying, erasing, mutilating, transferring, or
9 otherwise disposing of, in any manner, directly or indirectly, any documents,
10 including electronically stored materials, that relate in any way to the business
11 practices or business or personal finances of Defendants; or to the business
12 practices or finances of entities directly or indirectly under the control of
13 Defendants; and

14 B. Creating, operating, or exercising any control over any business
15 entity, whether newly formed or previously inactive, including any partnership,
16 limited partnership, joint venture, sole proprietorship, or corporation, without first
17 providing Plaintiff with a written statement disclosing: (1) the name of the
18 business entity; (2) the address and telephone number of the business entity; (3)
19 the names of the business entity's officers, directors, principals, managers, and
20 employees; and (4) a detailed description of the business entity's intended
activities.

1 **XII. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**
2 **OR CUSTOMER LISTS**

3 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
4 and their officers, agents, employees, and attorneys, and all other persons in active
5 concert or participation with any of them, who receive actual notice of this Order,
6 whether acting directly or indirectly, are hereby preliminarily restrained and
7 enjoined from:

8 A. selling, renting, leasing, transferring, or otherwise disclosing the
9 name, address, telephone number, credit card number, bank account number, e-
10 mail address, or other identifying information of any person who paid money to
11 the Defendants for products or services, or who were contacted or are on a list to
12 be contacted by the Defendants; and

13 B. Benefitting from or using the name, address, birth date, telephone
14 number, email address, Social Security numbers, credit card number, bank
15 account number, or other financial or identifying personal information of any
16 person from whom or about whom any Defendant obtained such information in
17 connection with the activities alleged in the Complaint.

18 *Provided* however that the Individual and Corporate Defendants may
19 disclose such identifying information to a law enforcement agency or as required
20 by any law, regulation, or court order.

1 **XIII. APPOINTMENT OF PERMANENT RECEIVER**

2 **IT IS FURTHER ORDERED** that Charlene Koonce is appointed as
3 Permanent Receiver for the Receivership Defendants, with the full power of an
4 equity receiver. The Permanent Receiver shall be the agent of this Court when
5 serving as Permanent Receiver, and shall comply with the Federal Rules of Civil
6 Procedure and the Local Rules of this Court.

7 **XIV. PERMANENT RECEIVER’S DUTIES**

8 **IT IS FURTHER ORDERED** that the Permanent Receiver is authorized
9 and directed to accomplish the following:

10 A. Assume full control of the Receivership Defendants by removing, as
11 the Permanent Receiver deems necessary or advisable, any director, officer,
12 independent contractor, employee, or agent of any of the Receivership
13 Defendants, including any Defendant, from control of, management of, or
14 participation in, the affairs of the Receivership Defendants;

15 B. Continue and conduct the business of the Receivership Defendants in
16 such manner, to such extent, and for such duration as the Permanent Receiver may
17 in good faith deem to be necessary or appropriate to operate the business
18 profitably and lawfully, if at all; provided, however, that the continuation and
19 conduct of the business shall be conditioned upon the Permanent Receiver’s good
20 faith determination that the business can be lawfully operated at a profit using the

1 assets of the receivership estate;

2 C. Take exclusive custody, control, and possession of all assets and
3 documents of, or in the possession, custody, or control of, the Receivership
4 Defendants, wherever situated. The Permanent Receiver shall have full power to
5 divert mail and to sue for, collect, receive, take in possession, hold, and manage
6 all assets and documents of the Receivership Defendants and other persons whose
7 interests are now under the direction, possession, custody, or control of, the
8 Receivership Defendants. The Permanent Receiver shall assume control over the
9 income and profits and all sums of money now or hereafter due or owing to the
10 Receivership Defendants. *Provided*, however, that the Permanent Receiver shall
11 not attempt to collect any amount from a consumer if the Permanent Receiver
12 believes the consumer was a victim of the unfair or deceptive acts or practices or
13 other violations of law alleged in the Complaint;

14 D. Take all steps necessary to secure the business premises of the
15 Receivership Defendants. Such steps may include, but are not limited to, any of
16 the following, as the Permanent Receiver deems necessary or advisable:

- 17 1. serving this Order;
- 18 2. completing a written inventory of all Receivership assets;
- 19 3. obtaining pertinent information from all employees and other
20 agents of the Receivership Defendants, including the name, home address,

1 Social Security number, job description, user names or passwords needed to
2 access Receivership Defendants' documents, methods of compensation, and
3 all accrued and unpaid commissions and compensation of each such
4 employee or agent;

5 4. photographing and videotaping any or all portions of the
6 location;

7 5. securing the location by changing the locks and disconnecting
8 any computer modems or other means of access to the computer or other
9 records maintained at that location;

10 6. opening and inventorying any safe deposit box, commercial
11 mail box, or storage facility in the name of any Receivership Defendant,
12 either individually or jointly, or subject to access by any Receivership
13 Defendant; and

14 7. requiring any persons present on the premises at the time this
15 Order is served to leave the premises, to provide the Permanent Receiver
16 with proof of identification, or to demonstrate to the satisfaction of the
17 Permanent Receiver that such persons are not removing from the premises
18 assets or documents of the Receivership Defendants. Law enforcement
19 personnel, including police or sheriffs, may assist the Permanent Receiver
20 in implementing these provisions in order to keep the peace and maintain

1 security. If requested by the Permanent Receiver, the United States Marshal
2 will provide appropriate and necessary assistance to the Permanent
3 Receiver to implement this Order;

4 E. Conserve, hold, and manage all assets of the Receivership
5 Defendants, and perform all acts necessary or advisable to preserve the value of
6 those assets in order to prevent any irreparable loss, damage, or injury to
7 consumers or creditors of the Receivership Defendants, including obtaining an
8 accounting of the assets and preventing the unauthorized transfer, withdrawal, or
9 misapplication of assets;

10 F. Enter into and cancel contracts, and purchase insurance as the
11 Permanent Receiver deems advisable or necessary;

12 G. Prevent the inequitable distribution of assets and determine, adjust,
13 and protect the interests of consumers and creditors who have transacted business
14 with the Receivership Defendants;

15 H. Manage and administer the business of the Receivership Defendants
16 by performing all incidental acts that the Permanent Receiver deems to be
17 advisable or necessary, which includes retaining, hiring, or dismissing any
18 employees, independent contractors, or agents;

19 I. Authorize the release of any copy or image of any website used or
20 controlled by the Receivership Defendants to the FTC;

1 J. Choose, engage, and employ attorneys, accountants, appraisers, and
2 other independent contractors and technical specialists, as the Permanent Receiver
3 deems advisable or necessary in the performance of duties and responsibilities
4 under the authority granted by this Order;

5 K. Make payments and disbursements from the receivership estate that
6 are necessary or advisable for carrying out the directions of, or exercising the
7 authority granted by, this Order. The Permanent Receiver shall apply to the Court
8 for prior approval of any payment of any debt or obligation incurred by the
9 Receivership Defendants prior to the date of entry of this Order, except payments
10 that the Permanent Receiver deems necessary or advisable to secure assets of the
11 Receivership Defendants, such as rental payments;

12 L. Institute, compromise, adjust, appear in, intervene in, or become
13 party to such actions or proceedings in state, federal or foreign courts or
14 arbitration proceedings as the Permanent Receiver deems necessary and advisable
15 to preserve or recover the assets of the Receivership Defendants, or that the
16 Permanent Receiver deems necessary and advisable to carry out the Permanent
17 Receiver's mandate under this Order, including actions challenging fraudulent or
18 voidable transfers;

19 M. Defend, compromise, adjust, or otherwise dispose of any or all
20 actions or proceedings instituted in the past or in the future against the Permanent

1 Receiver in the role of Permanent Receiver, or against the Receivership
2 Defendants, as the Permanent Receiver deems necessary and advisable to preserve
3 the assets of the Receivership Defendants, or as the Permanent Receiver deems
4 necessary and advisable to carry out the Permanent Receiver's mandate under this
5 Order;

6 N. Take depositions and issue subpoenas to obtain documents and
7 records pertaining to the receivership estate and compliance with this Order.

8 Subpoenas may be served by agents or attorneys of the Permanent Receiver and
9 by agents of any process server retained by the Permanent Receiver;

10 O. Maintain accurate records of all receipts and expenditures incurred as
11 Permanent Receiver;

12 P. Open one or more bank accounts as designated depositories for funds
13 of the Receivership Defendants. The Permanent Receiver shall deposit all funds of
14 the Receivership Defendants in such a designated account and shall make all
15 payments and disbursements from the receivership estate from such account. The
16 Permanent Receiver shall serve copies of monthly account statements on all
17 parties; and

18 Q. Cooperate with reasonable requests for information or assistance
19 from any state or federal law enforcement agency.

1 **XV. PERMANENT RECEIVER'S BOND**

2 **IT IS FURTHER ORDERED** that the Permanent Receiver has filed with
3 the Clerk of this Court a bond in the sum of \$20,000, with sureties approved by
4 this Court, and shall well and truly perform the duties of the office and abide by
5 and perform all acts the Court directs.

6 **XVI. DELIVERY OF RECEIVERSHIP PROPERTY**

7 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
8 and their officers, agents, employees, and attorneys, and all other persons in active
9 concert or participation with any of them, who receive actual notice of this Order,
10 and any other person with possession, custody or control of assets or documents
11 relating to the Receivership Defendants shall upon notice of this Order, by
12 personal service or otherwise, immediately notify the Permanent Receiver of, and,
13 upon receiving a request from the Permanent Receiver, immediately transfer or
14 deliver to the Permanent Receiver possession, custody, and control of, the
15 following:

16 A. All assets of the Receivership Defendants;

17 B. All documents of the Receivership Defendants, including books and
18 records of accounts, all financial and accounting records, balance sheets, income
19 statements, bank records (including monthly statements, canceled checks, records
20 of wire transfers, and check registers), client lists, title documents and other

1 papers;

2 C. All computers and data in whatever form used to conduct the
3 business of the Receivership Defendants; and

4 D. All usernames, keys, codes, and passwords necessary to gain or to
5 secure access to any assets or documents of the Receivership Defendants,
6 including access to their business premises, means of communication, accounts,
7 computer systems, or other property.

8 In the event that any person or entity fails to deliver or transfer any asset or
9 document or otherwise fails to comply with any provision of this Section, the
10 Permanent Receiver may file *ex parte* an Affidavit of Non-Compliance regarding
11 the failure. Upon filing of the affidavit, the Court may authorize, without
12 additional process or demand, Writs of Possession or Sequestration or other
13 equitable writs requested by the Permanent Receiver. The writs shall authorize
14 and direct the United States Marshal or any sheriff or deputy sheriff of any
15 county, or any other federal or state law enforcement officer, to seize the asset,
16 document, or other item covered by this Section and to deliver it to the Permanent
17 Receiver.

18 **XVII. PROVISION OF INFORMATION TO PERMANENT RECEIVER**

19 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
20 shall provide to the Permanent Receiver, immediately upon request, without need

1 of any subpoena or further order, the following:

2 A. A list of all locations where documents of the Receivership
3 Defendants are located, and the means to access such documents within five hours
4 of the Permanent Receiver's request; and

5 B. Within forty-eight (48) hours of service of this Order, the
6 Individual and Corporate Defendants shall produce to the Permanent Receiver a
7 list of all agents, employees, officers, and those persons in active concert and
8 participation with them, who have been associated or done business with the
9 Receivership Defendant(s).

10 **XVIII. COOPERATION WITH THE PERMANENT RECEIVER**

11 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
12 and their officers, agents, employees, and attorneys, and all other persons in active
13 concert or participation with any of them, who receive actual notice of this Order,
14 and any other person served with a copy of this Order shall fully cooperate with
15 and assist the Permanent Receiver in taking and maintaining possession, custody,
16 or control of the assets and documents of the Receivership Defendants. This
17 cooperation and assistance shall include:

18 A. Providing information to the Permanent Receiver that the Permanent
19 Receiver deems necessary in order to exercise the authority and discharge the
20 responsibilities of the Permanent Receiver under this Order;

1 B. Advising all persons who owe money to the Receivership Defendants
2 that all debts should be paid directly to the Permanent Receiver; and

3 C. Transferring funds at the Permanent Receiver’s direction and
4 producing documents related to the assets and sales of the Receivership
5 Defendants. The entities obligated to cooperate with the Permanent Receiver
6 under this provision include financial institutions and persons that have transacted
7 business with the Receivership Defendants.

8 **XIX. NONINTERFERENCE WITH THE PERMANENT RECEIVER**

9 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
10 and their officers, agents, employees, attorneys, and all other persons in active
11 concert or participation with any of them, who receive actual notice of this Order,
12 and their corporations, subsidiaries, divisions, or affiliates, are hereby restrained
13 and enjoined from directly or indirectly:

14 A. Interfering with the Permanent Receiver managing, or taking
15 custody, control, or possession of, the assets or documents subject to this
16 Receivership;

17 B. Transacting any of the business of the Receivership Defendants;

18 C. Transferring, receiving, altering, selling, encumbering, pledging,
19 assigning, liquidating, or otherwise disposing of any assets owned, controlled, or
20 in the possession or custody of, or in which an interest is held or claimed by, the

1 Receivership Defendants, or the Permanent Receiver; and

2 D. Refusing to cooperate with the Permanent Receiver or the Permanent
3 Receiver's duly authorized agents in the exercise of their duties or authority under
4 any order of this Court.

5 **XX. PERMANENT RECEIVER'S REPORT**

6 **IT IS FURTHER ORDERED** that the Permanent Receiver shall report to
7 this Court: (1) the steps taken by the Permanent Receiver to implement the terms
8 of this Order; (2) the value of all liquidated and unliquidated assets of
9 Receivership Defendants; (3) the sum of all liabilities of Receivership Defendants;
10 (4) the steps the Permanent Receiver intends to take in the future to: (a) prevent
11 any diminution in the value of assets of Receivership Defendants; (b) pursue
12 receivership assets from third parties; and (c) adjust the liabilities of Receivership
13 Defendants, if appropriate; (5) the Permanent Receiver's finding regarding the
14 ability of the Receivership Defendants to operate legally and profitably; and (6)
15 any other matters that the Permanent Receiver believes should be brought to the
16 Court's attention. *Provided*, however, if any of the required information would
17 hinder the Permanent Receiver's ability to pursue receivership assets, the portions
18 of the Permanent Receiver's report containing the information may be filed under
19 seal and not served on the parties.

1 **XXI. STAY OF ACTIONS AGAINST DEFENDANTS**

2 **IT IS FURTHER ORDERED** that, except by leave of this Court, during
3 the pendency of the Receivership ordered herein, Individual and Corporate
4 Defendants and their officers, agents, employees, attorneys, and all other persons
5 in active concert or participation with any of them, who receive actual notice of
6 this Order, and any person seeking to establish or enforce any right, title, interest,
7 or claim against or on behalf of any Defendant, and all others acting for or on
8 behalf of such persons, are hereby enjoined from taking action that would
9 interfere with the exclusive jurisdiction of this Court over the assets or documents
10 of the Defendants, including:

11 A. Filing or assisting in the filing of a petition for relief under the
12 Bankruptcy Code, 11 U.S.C. § 101 et seq., or of any similar insolvency
13 proceeding;

14 B. Commencing, prosecuting, continuing, entering, or enforcing any suit
15 or proceeding against the Defendants, except that such actions may be
16 commenced if necessary to toll any applicable statute of limitations;

17 C. Accelerating the due date of any obligation or claimed obligation;
18 filing or enforcing any lien; taking or attempting to take possession, custody, or
19 control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest
20 in any asset, whether such acts are part of a judicial proceeding, are acts of self-

1 help, or otherwise;

2 D. Filing or enforcing any lien on any asset of the Defendants, taking or
3 attempting to take possession, custody, or control of any asset of the Defendants;
4 or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of
5 the Defendants, whether such acts are part of a judicial proceeding, are acts of
6 self-help, or otherwise; or

7 E. Initiating any other process or proceeding that would interfere with
8 the Permanent Receiver managing or taking custody, control, or possession of, the
9 assets or documents subject to this receivership.

10 *Provided* that, this Order does not stay: (1) the commencement or
11 continuation of a criminal action or proceeding; (2) the commencement or
12 continuation of an action or proceeding by a governmental unit to enforce such
13 governmental unit's police or regulatory power; or (3) the enforcement of a
14 judgment, other than a money judgment, obtained in an action or proceeding by a
15 governmental unit to enforce such governmental unit's police or regulatory power.

16 **XXII. COMPENSATION OF PERMANENT RECEIVER**

17 **IT IS FURTHER ORDERED** that the Permanent Receiver and all
18 personnel hired by the Permanent Receiver, including counsel to the Permanent
19 Receiver and accountants, are entitled to reasonable compensation for the
20 performance of duties pursuant to this Order and for the cost of actual out-of-

1 pocket expenses incurred by them solely, from the assets now held by, in the
2 possession or control of, or which may be received by, the Receivership
3 Defendants. The Permanent Receiver shall file with the Court and serve on the
4 parties periodic requests for the payment of such reasonable compensation, with
5 the first such request filed no more than sixty (60) days after the date of entry of
6 this Order. The Permanent Receiver shall not increase the hourly rates used as the
7 bases for such fee applications without prior approval of the Court.

8 **XXIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

9 **IT IS FURTHER ORDERED** that Individual and Corporate Defendants
10 shall immediately provide a copy of this Order to each affiliate, sales entity,
11 successor, assign, member, officer, director, employee, agent, independent
12 contractor, client, servant, attorney, spouse, subsidiary, division, and
13 representative of any Individual and Corporate Defendant, and shall, within ten
14 (10) days from the date of entry of this Order, individually provide the FTC with a
15 sworn statement that each Individual and Corporate Defendant has complied with
16 this provision of the Order, which statement shall include the names and addresses
17 of each such person or entity who received a copy of this Order.

18 **XXIV. RETENTION OF JURISDICTION**

19 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this
20 matter for all purposes.

1 The Hearing re Asset Freeze set for October 1, 2015 is vacated and TAKEN
2 OFF-CALENDAR.

3 **IT IS SO ORDERED.**

4 **Dated: September 9, 2015**



5 **Hon. George H. Wu,**
6 **United States District Judge**

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