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

14 _____
 15 **FEDERAL TRADE COMMISSION,**

16 Plaintiff,

17 vs.

18 **GOOD EBUSINESS, LLC**, also d/b/a
 19 AAP Firm; Student Loan Help Direct;
 20 Select Student Loan; **SELECT**
 21 **STUDENT LOAN HELP, LLC;**
 22 **SELECT DOCUMENT**
 23 **PREPARATION, INC.;** **TOBIAS**
 24 **WEST** aka Tobey West, Toby West,
 and Eric West; and **KOMAL WEST,**

25 Defendants.
 26
 27
 28

No. LACV-16-1048 (ODW) JPRx

~~PROPOSED~~ **PRELIMINARY
 INJUNCTION WITH ASSET
 FREEZE, APPOINTMENT OF
 RECEIVER, LIMITED
 EXPEDITED DISCOVERY, AND
 OTHER EQUITABLE RELIEF AS
 TO DEFENDANTS TOBIAS AND
 KOMAL WEST**

1 Plaintiff, Federal Trade Commission (“FTC”), filed its Complaint for
2 Permanent Injunction and Other Equitable Relief and *Ex Parte* Application for
3 Restraining Order with Asset Freeze, Appointment of Receiver, and Other Relief
4 and Order to Show Cause Why Preliminary Injunction Should Not Issue (“Order”)
5 on February 16, 2016. The Court entered the requested Order on February 16,
6 2016. Dkt. 12. Defendants were served with the Order and other related papers on
7 February 19, 2016. Returns of Service were filed by Plaintiff via ECF. Dkts. 20-
8 22. A Show Cause Hearing has been scheduled for March 1, 2016. Dkt. 14. The
9 Court set a deadline of February 28, 2016, for defendants to file an opposition to
10 Plaintiff’s request for entry of preliminary injunction. Defendants have not filed
11 any responsive pleadings.

12 Having considered the parties’ pleadings, papers, and argument, the Court
13 hereby **GRANTS** the Preliminary Injunction against Defendants TOBIAS WEST
14 aka Tobey West, Toby West, and Eric West, and KOMAL WEST.

15 **FINDINGS**

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

18 2. There is good cause to believe that venue is proper in this District.

19 3. There is good cause to believe that Individual Defendants have
20 engaged and are likely to continue to engage in acts or practices that violate
21 Section 5(a) of the FTC Act, the TSR, and the MARS Rule, and that the FTC is
22 therefore likely to prevail on the merits of this action.

23 4. There is good cause to believe that consumers will suffer immediate
24 and irreparable harm from Individual Defendants’ ongoing violations of Section
25 5(a) of the FTC Act, the TSR, and MARS Rule unless Individual Defendants are
26 restrained and enjoined by Order of this Court.

27 5. There is good cause to believe that immediate and irreparable damage
28 to the Court’s ability to grant effective final relief for consumers in the form of

1 monetary restitution and disgorgement of ill-gotten gains will occur from the sale,
2 transfer, dissipation, or concealment by Individual Defendants of their assets or
3 business records unless Individual Defendants are immediately restrained and
4 enjoined by Order of this Court.

5 6. Weighing the equities and considering the FTC's likelihood of
6 ultimate success, the entry of this preliminary injunction with asset freeze,
7 appointment of a receiver, immediate access to business premises, and other
8 equitable relief is in the public interest.

9 7. No security is required of any agency of the United States for the
10 issuance of a preliminary injunction order. Fed. R. Civ. P. 65(c).

11 DEFINITIONS

12 For the purposes of this Preliminary Injunction the following definitions
13 apply:

14 For the purposes of this Preliminary Injunction the following definitions apply:

15 A. **“Asset” or “Assets”** means any legal or equitable interest in, right to,
16 or claim to, any real and personal property of any Individual Defendant, or held for
17 the benefit of any Individual Defendant, wherever located, whether in the United
18 States or abroad, including, but not limited to, chattel, goods, instruments,
19 equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or
20 other deliveries, shares of stock, commodities, futures, inventory, checks, notes,
21 accounts, credits, receivables (as those terms are defined in the Uniform
22 Commercial Code), cash, and trusts, including, but not limited to, any trust held for
23 the benefit of any Individual Defendant, any of the Individual Defendant's minor
24 children, or any of the Individual Defendant's spouses, and shall include both
25 existing assets and assets acquired after the date of entry of this Order, or any
26 interest therein.

27 B. **“Assisting others”** includes: (1) performing customer service
28 functions, including receiving or responding to consumer complaints; (2)

1 formulating or providing, or arranging for the formulation or provision of, any
2 advertising or marketing material, including any telephone script, direct mail
3 solicitation, or the design, text, or use of images of any Internet website, email, or
4 other electronic communication; (3) formulating or providing, or arranging for the
5 formulation or provision of, any marketing support material or service, including
6 web or Internet Protocol addresses or domain name registration for any Internet
7 websites, affiliate marketing services, or media placement services; (4) providing
8 names of, or assisting in the generation of, potential customers; (5) performing
9 marketing, billing, or payment services of any kind; (6) acting or serving as an
10 owner, officer, director, manager, or principal of any entity; or (7) providing
11 telemarketing services.

12 C. **“Debt relief service”** means any program or service represented,
13 directly or by implication, to renegotiate, settle, or in any way alter the terms of
14 payment or other terms of the debt between a person and one or more unsecured
15 creditors or debt collectors, including, but not limited to, a reduction in the balance,
16 interest rate, or fees owed by a person to an unsecured creditor or debt collector.

17 D. **“Individual Defendants”** means Tobias West and Komal West,
18 individually, collectively, or in any combination, and each of them by whatever
19 names each might be known.

20 E. **“Document” and “electronically stored information”** are
21 synonymous in meaning and equal in scope to the usage of the terms in Rule
22 34(a)(1)(A) of the Federal Rules of Civil Procedure.

23 F. **“Electronic data host”** means any person or entity that stores, hosts,
24 or otherwise maintains electronically stored information.

25 G. **“Financial institution”** means any bank, savings and loan institution,
26 credit union, or any financial depository of any kind, including, but not limited to,
27 any brokerage house, trustee, broker-dealer, escrow agent, title company,
28 commodity trading company, or precious metal dealer.

1 H. **“Material fact”** means any fact that is likely to affect a person’s
2 choice of, or conduct regarding, goods, or services.

3 I. **“Mortgage assistance relief service” or “MARS”** means any
4 product, service, plan, or program, offered or provided to the consumer in
5 exchange for consideration, that is represented, expressly or by implication, to
6 assist or attempt to assist the consumer with any of the following:

7 1. stopping, preventing, or postponing any mortgage or deed of
8 trust foreclosure sale for the consumer’s dwelling, any repossession of the
9 consumer’s dwelling, or otherwise saving the consumer’s dwelling from
10 foreclosure or repossession;

11 2. negotiating, obtaining, or arranging a modification of any term
12 of a dwelling loan, including a reduction in the amount of interest, principal
13 balance, monthly payments, or fees;

14 3. obtaining any forbearance or modification in the timing of
15 payments from any dwelling loan holder or servicer on any dwelling loan;

16 4. negotiating, obtaining, or arranging any extension of the period
17 of time within which the consumer may (i) cure his or her default on a dwelling
18 loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise
19 any right to reinstate a dwelling loan or redeem a dwelling;

20 5. obtaining any waiver of an acceleration clause or balloon
21 payment contained in any promissory note or contract secured by any dwelling; or

22 6. negotiating, obtaining, or arranging (i) a short sale of a
23 dwelling, (ii) a deed-in-lieu of foreclosure, or (iii) any other disposition of a
24 dwelling other than a sale to a third party who is not the dwelling loan holder. The
25 foregoing shall include any manner of claimed assistance, including, but not
26 limited to, auditing or examining a consumer’s mortgage or home loan application
27 and offering to provide or providing legal services, or offering to sell a consumer a
28 plan or subscription to a service that provides such assistance.

1 J. “**Person**” means a natural person, organization, or other legal entity,
2 including a corporation, partnership, proprietorship, association, cooperative, or
3 any other group or combination acting as an entity.

4 K. “**Receivership Defendants**” means Good EBusiness, LLC, also d/b/a
5 AAP Firm; Student Loan Help Direct; Select Student Loan; Select Student Loan
6 Help, LLC; and Select Document Preparation, Inc.

7 L. “**Receiver**” means the Receiver appointed in Section XV of the
8 Temporary Restraining Order (“TRO”) entered in this matter on February 16,
9 2016. Dkt. 12. The term “Receiver” also includes any deputy receivers or agents
10 as may be named by the Receiver.

11 M. “**Telemarketer**” means any person who, in connection with
12 telemarketing, initiates or receives telephone calls to or from a customer or donor.
13 16 C.F.R. § 310.2(cc).

14 N. “**Telemarketing**” means a plan, program, or campaign (whether or not
15 covered by the TSR, 16 C.F.R. Part 310) that is conducted to induce the purchase
16 of goods or services or a charitable contribution by use of one or more telephones.

17 **I. PROHIBITION ON COLLECTION OF ADVANCE FEES**

18 **IT IS THEREFORE ORDERED** that Individual Defendants and their
19 officers, agents, employees, and attorneys, and those persons or entities in active
20 concert or participation with any of them, who receive actual notice of this Order,
21 whether acting directly or through any corporation, subsidiary, division, or other
22 device, are hereby preliminarily restrained and enjoined from:

23 A. In connection with providing, offering to provide, or arranging for
24 others to provide any MARS, requesting or receiving payment of any fee or other
25 consideration for any MARS before the consumer has executed a written
26 agreement with the consumer’s dwelling loan holder or servicer incorporating the
27 offer of mortgage assistance relief that a Individual Defendant obtained from the
28 consumer’s dwelling loan holder or servicer on the consumer’s behalf, in violation

1 of MARS Rule, 12 C.F.R. § 1015.5(a); and

2 B. In connection with providing, offering to provide, or arranging for
3 others to provide any debt relief service, requesting or receiving payment of any
4 fees or consideration for any debt relief service before the seller or telemarketer
5 has renegotiated, settled, reduced, or otherwise altered the terms of at least one
6 debt pursuant to a settlement agreement, debt management plan, or other such
7 valid contractual agreement executed by the customer, and the customer has made
8 at least one payment pursuant to that settlement agreement, debt management plan,
9 or other valid contractual agreement between the customer and the creditor or debt
10 collector, in violation of the TSR, 16 C.F.R. § 310.4(a)(5)(i).

11 **II. REPRESENTATIONS PROHIBITED BY SECTION 5 OF THE FTC**
12 **ACT**

13 **IT IS FURTHER ORDERED** that Individual Defendants and their
14 officers, agents, employees, and attorneys, and those persons or entities in active
15 concert or participation with any of them, who receive actual notice of this Order,
16 whether acting directly or through any corporation, subsidiary, division, or other
17 device, in connection with the advertising, marketing, promotion, offering for sale,
18 sale, or provision of any MARS or debt relief service, are hereby preliminarily
19 restrained and enjoined from misrepresenting or assisting others in
20 misrepresenting, expressly or by implication that:

21 A. Individual Defendants typically will obtain mortgage loan
22 modifications for consumers that will make consumers' payments substantially
23 more affordable, substantially lower their interest rates, or help them avoid
24 foreclosure;

25 B. Individual Defendants will provide legal services, including forensic
26 audits;

27 C. Individual Defendants will refund the consumer's fee if Defendants
28 fail to obtain the promised mortgage loan modification or other debt relief.

1 D. Individual Defendants can renegotiate, settle, or alter the terms of
2 payment for consumers' student loan debts to secure a specified lower monthly
3 loan payment, loan forgiveness, or removal of tax liens and wage garnishments;

4 E. The promised debt relief is guaranteed;

5 F. Consumers can only obtain the promised debt relief by paying
6 Individual Defendants' advance fee;

7 G. Individual Defendants are affiliated with or work directly with the
8 U.S. Department of Education ("USDOE"), the government, or consumers' loan
9 servicer; and

10 I. Consumers will not be responsible for the interest that accrues while
11 Individual Defendants are providing the promised debt relief service.

12 **III. REPRESENTATIONS PROHIBITED AND DISCLOSURES**
13 **REQUIRED BY THE MARS RULE**

14 **IT IS FURTHER ORDERED** that Individual Defendants and their
15 officers, agents, employees, and attorneys, and those persons or entities in active
16 concert or participation with any of them who receive actual notice of this Order,
17 whether acting directly or through any corporation, subsidiary, division, or other
18 device, in connection with the advertising, marketing, promotion, offering for sale,
19 sale, or provision of any MARS or debt relief service, are hereby preliminarily
20 restrained and enjoined from engaging in the following conduct:

21 A. Representing, expressly or by implication, that a consumer cannot or
22 should not contact or communicate with his or her lender or servicer, in violation
23 of 12 C.F.R. § 1015.3(a);

24 B. Misrepresenting, expressly or by implication, any material aspect of
25 any MARS, including, but not limited to:

26 1. The likelihood of negotiating, obtaining, or arranging any
27 represented service or result, including, but not limited to, the likelihood of
28 negotiating, obtaining, or arranging a modification of any term of a dwelling loan,

1 including a reduction in the amount of interest, principal balance, monthly
2 payments, or fees, in violation of 12 C.F.R. § 1015.3(b)(1);

3 2. The amount of time it will take the MARS provider to
4 accomplish any represented service or result, in violation of 12 C.F.R. §
5 1015.3(b)(2);

6 3. That a MARS is affiliated with, endorsed or approved by, or
7 otherwise associated with the government or the maker, holder, or servicer of the
8 consumer’s dwelling loan, in violation of 12 C.F.R. § 1015.3(b)(3);

9 4. The terms or conditions of any refund, cancellation, exchange,
10 or repurchase policy for a MARS, including, but not limited to, the likelihood of
11 obtaining a full or partial refund, or the circumstances in which a full or partial
12 refund will be granted, for a MARS, in violation of 12 C.F.R. § 1015.3(b)(6); or

13 5. That the consumer will receive legal representation, in violation
14 of 12 C.F.R. § 1015.3(b)(8);

15 C. Failing to disclose the following information in all general and
16 consumer-specific commercial communications:

17 1. “[Name of Company] is not associated with the government,
18 and our service is not approved by the government or your lender,” in violation of
19 12 C.F.R. § 1015.4(a)(1) and (b)(2); and

20 2. “Even if you accept this offer and use our service, your lender
21 may not agree to change your loan,” in violation of 12 C.F.R. § 1015.4(a)(2) and
22 (b)(3);

23 D. Failing to disclose the following information in all consumer-specific
24 commercial communications: “You may stop doing business with us at any time.
25 You may accept or reject the offer of mortgage assistance we obtain from your
26 lender [or servicer]. If you reject the offer, you do not have to pay us. If you
27 accept the offer, you will have to pay us [insert amount or method for calculating
28 the amount] for our services,” in violation of 12 C.F.R. § 1015.4(b)(1). For the

1 purposes of this section, the amount “you will have to pay” shall consist of the
2 total amount the consumer must pay to purchase, receive, and use all of the MARS
3 that are the subject of the sales offer, including but not limited to, all fees and
4 charges.

5 **IV. REPRESENTATIONS PROHIBITED AND DISCLOSURES**
6 **REQUIRED BY THE TSR**

7 **IT IS FURTHER ORDERED** that Individual Defendants and their
8 officers, agents, employees, and attorneys, and those persons or entities in active
9 concert or participation with any of them who receive actual notice of this Order,
10 whether acting directly or indirectly, in connection with advertising, marketing,
11 promotion, offering for sale, sale, or provision of any debt relief service, are hereby
12 preliminarily restrained and enjoined from engaging in the following conduct:

13 A. Misrepresenting, expressly or by implication, that Individual
14 Defendants can renegotiate, settle, or alter the terms of payment for the consumer’s
15 student loan debt to secure a specified lower monthly loan payment, loan
16 forgiveness, and removal of tax liens and wage garnishments;

17 B. Misrepresenting, expressly or by implication, that the promised debt
18 relief is guaranteed and if Individual Defendants are unable to secure the promised
19 debt relief they will fully refund the advance fee to the consumer;

20 C. Misrepresenting, expressly or by implication, that Individual
21 Defendants are affiliated with or work directly with the USDOE, the government,
22 or the consumer’s loan servicer; and

23 D. Failing to truthfully disclose, in a clear and conspicuous manner,
24 before a consumer has agreed to pay for student loan debt relief services, that to
25 the extent the debt relief service relies on or results in the customer’s failure to
26 make timely payments to creditors or debt collectors, the use of the debt relief
27 service may increase the amount of money the customer owes due to the accrual of
28 fees and interest.

1 **V. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

2 **IT IS FURTHER ORDERED** that Individual Defendants and their
3 officers, agents, employees, and attorneys, and those persons or entities in active
4 concert or participation with any of them, who receive actual notice of this Order,
5 whether acting directly or indirectly, in connection with the advertising, marketing,
6 promotion, offering for sale, sale, or provision of any MARS or other debt relief
7 service, are hereby preliminarily enjoined from destroying, erasing, mutilating,
8 concealing, altering, transferring, or otherwise disposing of, in any manner, any
9 documents or records that relate to the business practices, or business or personal
10 finances, of Individual Defendants, or an entity directly or indirectly under the
11 control of Individual Defendants.

12 **VI. DISABLEMENT OF WEBSITES AND PRESERVATION OF**
13 **ELECTRONICALLY STORED INFORMATION**

14 **IT IS FURTHER ORDERED** that immediately upon service of the Order
15 upon them and pending determination of the FTC's request for a preliminary
16 injunction, (1) any person hosting any Internet website, server, or cloud-based
17 electronic storage for, or on behalf of, any Individual Defendant, and (2) Individual
18 Defendants and their officers, agents, employees, and attorneys, and those persons
19 or entities in active concert or participation with any of them, who receive actual
20 notice of this Order by personal service, facsimile transmission, email, or
21 otherwise, whether acting directly or through any corporation, subsidiary, division,
22 or other device, shall:

23 A. Immediately take all necessary steps to ensure that any Internet
24 website used by Individual Defendants for the advertising, marketing, promotion,
25 offering for sale, sale, or provision of any MARS or other debt relief service, and
26 containing statements or representations prohibited by Sections II, III, and IV of
27 this Order, cannot be accessed by the public; and

28 B. Prevent the alteration, destruction or erasure of any (1) Internet
website used by Individual Defendants for the advertising, marketing, promotion,

1 offering for sale, sale, or provision of any MARS or other debt relief service, by
2 preserving such websites in the format in which they are maintained currently, and
3 (2) any electronically stored information stored on behalf of Individual Defendants
4 or entities in active concert or participation with any of them.

5 **VII. SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

6 **IT IS FURTHER ORDERED** that, pending determination of the FTC's
7 request for a permanent injunction, any domain name registrar shall suspend the
8 registration of any Internet website used by Individual Defendants for the
9 advertising, marketing, promotion, offering for sale, sale, or provision of any
10 MARS or other debt relief service, and containing statements or representations
11 prohibited by Sections II, III, IV of this Order.

12 **VIII. PROHIBITION ON USE OF CUSTOMER INFORMATION**

13 **IT IS FURTHER ORDERED** that, except as required by a law
14 enforcement agency, law, regulation, or court order, Individual Defendants, and
15 their officers, agents, employees, and attorneys, and all other persons in active
16 concert or participation with any of them, who receive actual notice of this Order,
17 whether acting directly or indirectly, are preliminarily restrained and enjoined from
18 using, benefitting from, selling, renting, leasing, transferring, or otherwise
19 disclosing consumer information, including the name, address, telephone number,
20 email address, Social Security Number, credit card number, debit card number,
21 bank account number, any financial account number or any data that enables
22 access to a customer's account, or other identifying information of any person
23 which any Individual Defendant obtained prior to entry of this Order in connection
24 with the marketing or sale of any good or service, including those who were
25 contacted or are on a list to be contacted by any of the Individual Defendants.

26 **IX. ASSET FREEZE**

27 **IT IS FURTHER ORDERED** that Individual Defendants, and their
28 officers, agents, employees, and attorneys, and all persons or entities directly or
indirectly under the control of any of them, including any Financial Institution, and

1 all other persons or entities in active concert or participation with any of them who
2 receive actual notice of this Order, are hereby preliminarily restrained and enjoined
3 from directly or indirectly:

4 A. Transferring, liquidating, converting, encumbering, pledging,
5 loaning, selling, concealing, dissipating, disbursing, assigning, spending,
6 withdrawing, granting a lien or security interest or other interest in, or otherwise
7 disposing of any Assets, or any interest therein, wherever located, including
8 outside the United States, that are:

9 1. owned or controlled, directly or indirectly, by any Individual
10 Defendant, in whole or in part, or held, in whole or in part, for the benefit of any
11 Individual Defendant;

12 2. in the actual or constructive possession of any Individual
13 Defendant;

14 3. owned, controlled by, or in the actual or constructive possession
15 of any corporation, partnership, or other entity directly or indirectly owned,
16 managed, or controlled by, or under common control with any Individual
17 Defendant, or any other entity acting under a fictitious name owned by or
18 controlled by any Individual Defendant, and any Assets held by, for, or under the
19 name of any Individual Defendant at any bank or savings and loan institution, or
20 with any broker-dealer, escrow agent, title company, commodity trading company,
21 payment processing company, precious metal dealer, or other financial institution
22 or depository of any kind;

23 B. Opening or causing to be opened any safe deposit boxes titled in the
24 name of any Individual Defendant, or subject to access by any Individual
25 Defendant;

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

28 D. Obtaining a personal or secured loan;

1 E. Incurring liens or encumbrances on real property, personal property or
2 other Assets in the name, singly or jointly, of any Individual Defendant; and

3 F. Cashing any checks or depositing any money orders or cash received
4 from consumers, clients, or customers of any Individual Defendant.

5 The Assets affected by this Section shall include: (1) all Assets of
6 Individual Defendants as of the time this Order is entered; and (2) for Assets
7 obtained after the time this Order is entered, those Assets of Individual Defendants
8 that are derived, directly or indirectly, from the Individual Defendants' activities as
9 described in the FTC's Complaint. This Section does not prohibit transfers to the
10 Receiver, as specifically required in Section XVIII (Delivery of Receivership
11 Property) of the TRO entered in this matter on February 16, 2016. Dkt. 12.

12 **X. RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES**

13 **IT IS FURTHER ORDERED** that, pending determination of the FTC's
14 request for a permanent injunction, any financial or brokerage institution, business
15 entity, electronic data host, or person served with a copy of this Order that holds,
16 controls, or maintains custody of any account, document, electronically stored
17 information, or asset of, on behalf of, in the name of, for the benefit of, subject to
18 withdrawal by, subject to access or use by, or under the signatory power of any
19 Individual Defendant, or has held, controlled, or maintained any such account,
20 document, electronically stored information, or asset at any time shall:

21 A. Hold, preserve, and retain within such entity's or person's control, and
22 prohibit the withdrawal, removal, alteration, assignment, transfer, pledge,
23 hypothecation, encumbrance, disbursement, dissipation, conversion, sale,
24 liquidation, or other disposal of such account, document, electronically stored
25 information, or asset held by or under such entity's or person's control, except as
26 directed by further order of the Court or as directed in writing by the FTC and the
27 Individual Defendants regarding accounts, documents, or electronically stored
28 information, or asset held in the name of or benefit of any Individual Defendant;

B. Provide the FTC and the FTC's agents immediate access to

1 electronically stored information stored, hosted, or otherwise maintained on behalf
2 of Individual Defendants for forensic imaging;

3 C. Deny access to any safe deposit box titled in the name, individually or
4 jointly, or subject to access by, any Individual Defendant;

5 D. Provide to counsel for the FTC, within seven (7) business days of
6 being served with a copy of this Order a sworn statement setting forth:

7 1. the identification number of each account or asset titled: (a) in
8 the name, individually or jointly, of any Individual Defendant; (b) held on behalf
9 of, or for the benefit of, any Individual Defendant; (c) owned or controlled by any
10 Individual Defendant; or (d) otherwise subject to withdrawal access or use by, or
11 under the signatory power of any Individual Defendant;

12 2. the balance of each such account, or a description of the nature
13 and value of such asset, as of the close of business on the day on which this Order
14 is served;

15 3. the identification of any safe deposit box that is either titled in
16 the name of, individually or jointly, or is otherwise subject to access or control by,
17 any Individual Defendant; and

18 4. if the account, safe deposit box, or other asset has been closed
19 or removed, the date closed or removed, the balance or value on said date, and the
20 name or the person or entity to whom such account or asset was remitted;

21 E. Provide to counsel for the FTC within seven (7) business days after
22 being served with a request, copies of all documents pertaining to such account or
23 asset, including, but not limited to: originals or copies of account applications,
24 account statements, underwriting files, chargeback records, signature cards,
25 checks, drafts, deposit tickets, transfers to and from the accounts, all other debit
26 and credit instruments or slips, currency transaction reports, 1099 forms, and safe
27 deposit box logs; provided that such institution or custodian may charge a
28 reasonable fee;

1 F. Cooperate with all reasonable requests of the FTC relating to this
2 Order's implementation;

3 G. The Assets subject to this provision include: (a) all Assets of each
4 Individual Defendant deposited as of the time this Order is entered, and (b) those
5 Assets deposited after entry of this Order that are derived from the actions alleged
6 in Plaintiff's Complaint; and

7 H. The FTC is granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena
8 documents immediately from any financial or brokerage institution, business
9 entity, electronic data host, or person served with a copy of this Order that holds,
10 controls, or maintains custody of any account, document, electronically stored
11 information, or asset of, on behalf of, in the name of, for the benefit of, subject to
12 withdrawal by, subject to access or use by, or under the signatory power of any
13 Individual Defendant or other party subject to Section IX above, or has held,
14 controlled, or maintained any such account, document, electronically stored
15 information, or asset at any time, and such financial or brokerage institution,
16 business entity, electronic data host, or person shall respond to such subpoena
17 within three (3) business days after service. The FTC may effect service by
18 facsimile or electronic mail.

19 **XI. FINANCIAL STATEMENTS AND ACCOUNTING**

20 **IT IS FURTHER ORDERED** that each Individual Defendant, within seven
21 (7) business days of service of this Order, shall prepare and deliver to counsel for
22 the FTC and to the Receiver:

23 A. For the Individual Defendants, a completed financial statement
24 accurate as of the date of service of this Order upon such Individual Defendant on
25 the form of Attachment A to this Order captioned "Financial Statement of
26 Individual Defendant";

27 B. For each of the Corporate Defendants, a completed financial statement
28 accurate as of the date of service of this Order upon such Individual Defendant

1 (unless otherwise agreed upon with FTC counsel) in the form of Attachment B to
2 this Order captioned “Financial Statement of Corporate Defendant”;

3 C. For all Defendants, a list of all officers and directors of the Corporate
4 Defendants and all other individuals or entities with authority to direct the
5 operations of the Corporate Defendants or withdraw money from the accounts of
6 the Corporate Defendants; and

7 D. For Individual Defendant, a completed statement, verified under oath,
8 of all payments, transfers or assignments of funds, assets, or property worth \$2,500
9 or more since January 1, 2012. Such statement shall include: (a) the amount
10 transferred or assigned; (b) the name of each transferee or assignee; (c) the date of
11 the transfer or assignment; (d) the method of the transfer or assignment, including
12 the name of each Financial Institution and the accounts involved; and (e) the type
13 and amount of consideration paid the Individual Defendant.

14 **XII. CONSUMER CREDIT REPORTS**

15 **IT IS FURTHER ORDERED** that pursuant to Section 604(1) of the Fair
16 Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may
17 furnish to the FTC a consumer report concerning any Individual Defendant.

18 **XIII. REPATRIATION OF FOREIGN ASSETS**

19 **IT IS FURTHER ORDERED** that, within five (5) business days following the
20 service of this Order, each Individual Defendant shall:

21 A. Provide counsel for the FTC with a full accounting of all assets,
22 accounts, funds, and documents outside of the territory of the United States that are
23 held either: (1) by them; (2) for their benefit; (3) in trust by or for them,
24 individually or jointly; or (4) under their direct or indirect control, individually or
25 jointly;

26 B. Transfer to the territory of the United States all assets, accounts,
27 funds, and documents in foreign countries held either: (1) by them; (2) for their
28 benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct

1 or indirect control, individually or jointly; Hold and retain all repatriated assets,
2 accounts, funds, and documents, and prevent any transfer, disposition, or
3 dissipation whatsoever of any such assets, accounts, funds, or documents; and

4 C. Provide the FTC access to all records of accounts or assets of the
5 Corporate Defendants and Individual Defendants held by financial institutions
6 located outside the territorial United States by signing the Consent to Release of
7 Financial Records attached to this Order as **Attachment C**.

8 **XIV. NON-INTERFERENCE WITH REPATRIATION**

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

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

23 B. Notifying any trustee, protector or other agent of any foreign trust or
24 other related entities of either the existence of this Order, or of the fact that
25 repatriation is required pursuant to a Court Order, until such time that all assets
26 have been fully repatriated pursuant to Section XIII.

1 **XV. COOPERATION WITH THE RECEIVER**

2 **IT IS FURTHER ORDERED** that Individual Defendants and their
3 officers, agents, directors, servants, employees, salespersons, independent
4 contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns,
5 all other persons or entities in active concert or participation with them, who
6 receive actual notice of this Order by personal service or otherwise, whether acting
7 directly or through any trust, corporation, subsidiary, division, or other device, or
8 any of them, shall fully cooperate with and assist the Receiver. Individual
9 Defendants' cooperation and assistance shall include, but not be limited to,
10 providing any information to the Receiver that the Receiver deems necessary to
11 exercise the authority and discharge the responsibilities of the Receiver under this
12 Order; providing any login, password or biometric identifier required to access any
13 computer or electronic files or information in or on any medium; and advising all
14 persons who owe money to the Receivership Defendants that all debts should be
15 paid directly to the Receiver. Individual Defendants are hereby restrained and
16 enjoined from directly or indirectly:

- 17 A. Transacting any of the business of the Receivership Defendants;
18 B. Excusing debts owed to the Receivership Defendants;
19 C. Destroying, secreting, erasing, mutilating, defacing, concealing,
20 altering, transferring, or otherwise disposing of any documents, electronically
21 stored information, or equipment of any Receivership Defendant;
22 D. Transferring, receiving, altering, selling, encumbering, pledging,
23 assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or
24 in the possession or custody of, or in which an interest is held or claimed by, the
25 Receivership Defendants, or the Receiver;
26 F. Failing to provide any assistance or information requested by the
27 Receiver in connection with obtaining possession, custody, or control of any
28 Assets within the receivership estate that the Receiver or the FTC has identified; or

1 G. Doing any act or thing whatsoever to interfere with the Receiver's
2 taking and keeping custody, control, possession, or managing of the Assets or
3 documents subject to this receivership; or to harass or interfere with the Receiver
4 in any way; or to interfere in any manner with the exclusive jurisdiction of this
5 Court over the Assets or documents of the Receivership Defendants; or to refuse to
6 cooperate with the Receiver or the Receiver's duly authorized agents in the
7 exercise of their duties or authority under any Order of this Court.

8 **XVI. DELIVERY OF RECEIVERSHIP PROPERTY**

9 **IT IS FURTHER ORDERED** that:

10 A. Immediately upon service of this Order upon them or upon their
11 otherwise obtaining actual knowledge of this Order, or within a period permitted
12 by the Receiver, Individual Defendants or any other person or entity, including but
13 not limited to financial institutions and electronic data hosts, shall transfer or
14 deliver access to, possession, custody, and control of the following to the Receiver:

- 15 1. All assets of the Receivership Defendants;
- 16 2. All documents and electronically stored information of the
17 Receivership Defendants, including, but not limited to, books and records of
18 accounts, all financial and accounting records, balance sheets, income statements,
19 bank records (including monthly statements, canceled checks, records of wire
20 transfers, records of ACH transactions, and check registers), client or customer
21 lists, title documents and other papers;
- 22 3. All assets belonging to members of the public now held by the
23 Receivership Defendants;
- 24 4. All keys, computer and other passwords, entry codes,
25 combinations to locks required to open or gain or secure access to any assets or
26 documents of the Receivership Defendants, wherever located, including, but not
27 limited to, access to their business premises, means of communication, accounts,
28 computer systems, or other property; and

1 5. Information identifying the accounts, employees, properties, or
2 other assets or obligations of the Receivership Defendants.

3 B. In the event any person or entity fails to deliver or transfer
4 immediately any asset or otherwise fails to comply with any provision of this
5 Section XVI, the Receiver may file *ex parte* with the Court an Affidavit of Non-
6 Compliance regarding the failure. Upon filing of the affidavit, the Court may
7 authorize, without additional process or demand, Writs of Possession or
8 Sequestration or other equitable writs requested by the Receiver. The writs shall
9 authorize and direct the United States Marshal or any sheriff or deputy sheriff of
10 any county (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset, document, or
11 other thing and to deliver it to the Receiver.

12 **XVII. SMART PHONES AND TABLETS**

13 **IT IS FURTHER ORDERED** that if Individual Defendants possess a
14 smartphone or tablet on receivership premises, such Individual Defendants will
15 turn over the device to the Receiver for imaging. Within two business days, the
16 Receiver will return the device, provide them with a copy of the data imaged,
17 provide the FTC with a copy, and retain a copy. The Receiver may request that the
18 FTC conduct the imaging, but only under the Receiver's supervision.

19 **XVIII. CORRESPONDENCE WITH PLAINTIFF**

20 **IT IS FURTHER ORDERED** that, for the purposes of this Order, because
21 mail addressed to the FTC is subject to delay due to heightened security screening,
22 all correspondence and service of pleadings on Plaintiff shall be sent via electronic
23 submission and Federal Express to:

24 Eleanor Durham
25 Federal Trade Commission
26 915 Second Ave., Suite 2896
27 Seattle, WA 98174
28 edurham@ftc.gov
with a copy to:
Stacy Procter

1 Federal Trade Commission
2 10877 Wilshire Blvd., Suite 700
3 Los Angeles, CA 90024
4 sprocter@ftc.gov

5 **XIX. LIMITED EXPEDITED DISCOVERY**

6 **IT IS FURTHER ORDERED** that the FTC is granted leave to conduct
7 certain expedited discovery, and that, commencing with the time and date of this
8 Order, in lieu of the time periods, notice provisions, and other requirements of
9 Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, expedited
10 discovery as to parties and non-parties shall proceed as follows:

11 A. The FTC may, upon three (3) calendar days' notice, take the
12 deposition of any person or entity, whether or not a party, in any judicial district,
13 for the purpose of discovering: (1) the assets of Individual Defendants;
14 (2) location of documents; and (3) compliance with this Order. Depositions may
15 be conducted telephonically or in person. Deposition transcripts that have not been
16 signed by the witness may be used at the preliminary injunction hearing in this
17 matter. *Provided that*, notwithstanding Federal Rule of Civil Procedure 30(a)(2),
18 this Section shall not preclude any future depositions by the FTC. *Provided*
19 *further*, that any deposition taken pursuant to this Section shall be in addition to,
20 and not subject to, the presumptive limits on depositions set forth in Federal Rule
21 of Civil Procedure 30(a)(2)(A).

22 B. The FTC may serve interrogatories for the purpose of discovering:
23 (1) the assets of Individual Defendants; (2) location of documents; and
24 (3) compliance with this Order. Individual Defendants shall respond within five
25 (5) calendar days after the FTC serves such interrogatories. *Provided that*,
26 notwithstanding Federal Rule of Civil Procedure 33(a)(1), this Subsection shall not
27 preclude any future interrogatories by the FTC.

28 C. The FTC may, upon five (5) calendar days' notice, including through
the use of a Rule 45 Subpoena, demand the production of documents from any

1 person or entity, whether or not a Individual Defendant, relating to: (1) the assets
2 of Individual Defendants; (2) the location of documents; and (3) compliance with
3 this Order. *Provided that* two (2) calendar days' notice shall be deemed sufficient
4 for the production of any such documents that are maintained or stored only as
5 electronic data.

6 D. The FTC is granted leave to subpoena documents immediately from
7 any financial institution, account custodian, or other entity or person that holds,
8 controls, or maintains custody of any account or asset of any Individual Defendant,
9 or has held, controlled or maintained custody of any account or asset of any
10 Individual Defendant. The subject of such Subpoena may include the nature,
11 location, status, and extent of Individual Defendants' assets, and compliance with
12 this Order, and such financial institution, account custodian or other entity shall
13 respond to such subpoena within five (5) business days after service.

14 E. For purposes of discovery pursuant to this Section, service shall be
15 sufficient if made by facsimile or by overnight courier to any branch or location.

16 **XX. SERVICE OF THIS ORDER**

17 **IT IS FURTHER ORDERED** that copies of this Order may be served by
18 facsimile, email, hand-delivery, personal or overnight delivery, or U.S. Mail, by
19 agents and employees of the FTC or any state or federal law enforcement agency
20 or by private process server, upon any Financial Institution or other entity or
21 person that may have possession, custody, or control of any documents or assets of
22 any Individual Defendant, or that may otherwise be subject to any provision of this
23 Order. Service upon any branch or office of any Financial Institution shall effect
24 service upon the entire Financial Institution.

1 **XXI. DISTRIBUTION OF ORDER**

2 **IT IS FURTHER ORDERED** that within three (3) calendar days after
3 service of this Order, Individual Defendants shall provide a copy of this Order to
4 each of their agents, employees, directors, officers, subsidiaries, affiliates,
5 attorneys, independent contractors, representatives, franchisees, and all persons in
6 active concert or participation with Individual Defendants. Within five (5)
7 calendar days following this Order, Individual Defendants shall provide the FTC
8 with an affidavit identifying the names, titles, addresses, and telephone numbers of
9 the persons that Individual Defendants have served with a copy of this Order in
10 compliance with this provision.

11 **XXII. RETENTION OF JURISDICTION**

12 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of
13 this matter for all purposes of construction, modification, and enforcement of this
14 Order.

15 **IT IS SO ORDERED**, this 29th day of February _____, 2016, at ---
16 AM/PM, Pacific Standard Time.

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18 
19 UNITED STATES DISTRICT JUDGE
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