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12
13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15
16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 JEREMY JOHNSON, etc., et al.,

20 Defendants.
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24

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

**NOTICE OF MOTION AND MOTION
FOR ORDER CLARIFYING
PRELIMINARY INJUNCTION ORDER
AND FOR FURTHER INSTRUCTIONS
REGARDING SCOPE OF
RECEIVERSHIP DEFENDANTS UNDER
PRELIMINARY INJUNCTION ORDER
AND REPORT OF RECEIVER'S
FINANCIAL RECONSTRUCTION AND
GRANTING RELIEF FROM LOCAL
RULE 66-5 PERTAINING TO NOTICE
TO CREDITORS; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

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1 PLEASE TAKE NOTICE that Robb Evans of Robb Evans & Associates LLC
2 (“Receiver”), the Receiver pursuant to the Court’s Preliminary Injunction Order issued February
3 10, 2011, hereby moves the Court for an order for the following relief:

4 1. An order clarifying and confirming that the following entities are Receivership
5 Defendants within the meaning of the Temporary Restraining Order issued January 13, 2011 and
6 the Preliminary Injunction Order issued February 10, 2011 as subsidiaries, affiliates, successors,
7 assigns and/or alter egos of the named Receivership Defendants as defined in those orders and
8 that their assets constitute property of the receivership estate in this case: Zibby, LLC; Zibby
9 Flight Service, LLC; Orange Cat Investments, LLC; New Horizons Finance, Inc.; SLI, LLC;
10 Trigger, LLC; iPrerogative Inc.; and the assets of Sharla Johnson other than her interest in Quilted
11 Works, Inc.;

12 2. An order clarifying and confirming that the receivership estate include: (a) as
13 Receivership Defendants under the Preliminary Injunction Order the entities listed on Exhibit A
14 to the Memorandum of Points and Authorities filed in support of this Motion as subsidiaries,
15 affiliates, successors, assigns and/or alter egos of the named Receivership Defendants, (b) as
16 property of the receivership estate (“Receivership Property”) under the Preliminary Injunction
17 Order the assets of the individuals listed on Exhibit A, and (c) as Receivership Defendants and
18 Receivership Property all other entities and assets owned or controlled, directly or indirectly, by
19 Jeremy Johnson (“Johnson”), including but not limited to (i) all assets and entities held in the
20 name of a third party for the benefit of Johnson and/or (ii) all assets the source of funding of
21 which came in whole or in part from funds or assets of the Receivership Defendants as defined in
22 the Preliminary Injunction Order and as clarified pursuant to this Motion, subject to the
23 following:

24 A. That the Receiver be granted all of the powers and duties provided under
25 the Preliminary Injunction Order with respect to all Receivership Defendants and Receivership
26 Property as clarified under this Motion;

27 B. That the owners of any assets determined to constitute Receivership
28 Property and/or the entities determined to constitute Receivership Property under paragraph 2(c)

1 above may request a determination by the Court that such asset or entity should not be deemed
2 Receivership Property by noticed motion to the Court, which noticed motion shall (1) be in
3 writing, (2) be filed with the Court and served on the Receiver and the parties to this action, (3)
4 set forth all reasons why such asset or such entity should be excepted from the scope of the
5 receivership, and (4) set forth by competent evidence the reasons why such asset or entity should
6 be excepted from the scope of the receivership.

7 C. That as to all assets and entities listed in Exhibit A, the Receiver be granted
8 the authority and discretion, in the Receiver's opinion and judgment based on the Receiver's
9 investigation, to determine that certain entities, assets and/or business activities of certain entities
10 are sufficiently independent of and not affiliated with or related to Johnson and/or the other
11 Receivership Defendants and/or which the Receiver believes can be managed, administered
12 and/or operated by the record owners, shareholders, managers or members without interfering
13 with the Receiver's administration of the receivership estate and its assets, and based on such
14 determination, the Receiver may turn over the management, possession and control of such
15 assets, entities and/or business activities without further order of the Court.

16 This Motion is made pursuant to Local Civil Rules 7-2 and 66-5(a) and other applicable
17 law and is based upon this notice of motion and motion, the separate notice of filing of the
18 Motion served concurrently herewith, the memorandum of points and authorities and the
19 Declarations of Brick Kane and Gary Owen Caris filed in support hereof, any reply, the
20 pleadings, records and files of the Court in this action of which the Receiver requests the Court
21 take judicial notice, including but not limited to the Report of Temporary Receiver's Activities
22 filed February 8, 2011 (Doc. No. 127) ("First Report") and the Report of Receiver's Financial
23 Reconstruction filed February 3, 2012 (Doc. No. 464) which is supported by a four-volume
24 Appendix of Exhibits (Doc. Nos. 465-468) (collectively "Second Report"), and upon all other
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1 pleadings and documentary evidence as may be presented to the Court by the Receiver in support
2 of this Motion.

3
4 Dated: May 30, 2012

Respectfully submitted,

5
6 RANDOLPH L. HOWARD
KOLESAR & LEATHAM, CHTD.

7 MCKENNA LONG & ALDRIDGE LLP
8 GARY OWEN CARIS
LESLEY ANNE HAWES

9
10 By: /s/ Gary Owen Caris
Gary Owen Caris

11
12 Attorneys for Receiver
13 **ROBB EVANS OF ROBB EVANS &
ASSOCIATES LLC**

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On January 13, 2011, the Receiver was appointed Temporary Receiver over I Works, numerous other Corporate Defendants as defined in the Temporary Restraining Order and over the assets of defendant Jeremy Johnson (collectively the "Receivership Defendants"). Pursuant to the Preliminary Injunction Order entered February 10, 2011 ("Preliminary Injunction"), the Receiver has been appointed permanent receiver over the Receivership Defendants.

The term Receivership Defendants under the Preliminary Injunction is defined to include the assets of Jeremy Johnson and the named Corporate Defendants, including **"any subsidiaries, affiliates, any fictitious business names or business names created or used by these entities, or any of them, and their successors and assigns, individually, collectively or in any combination."** Preliminary Injunction, Definitions para. 8, p. 7, ll. 14-16 (emphasis added). This Motion seeks clarification and instructions concerning the scope of the Receivership Defendants based on the Receiver's findings and conclusions detailed in the Receiver's two reports to the Court, the Report of Temporary Receiver's Activities filed February 8, 2011 (Doc. No.127) ("First Report") and the Report of Receiver's Financial Reconstruction filed February 3, 2012 (Doc. No. 464) which is supported by a four-volume Appendix of Exhibits ("App.") (Doc. Nos. 465-468) (collectively "Second Report"). These findings indicate that defendant Jeremy Johnson ("Johnson") has used numerous friends, relatives and entities to continue payment processing activities commenced by the Receivership Defendants, to receive and transfer assets beneficially owned by Johnson or the other Receivership Defendants and to take title to and conceal assets beneficially owned and controlled by Johnson to attempt to remove them from the reach of the Receiver and other creditors. The relief sought is summarized in the foregoing Motion and the grounds for granting that relief are detailed below and in the First Report, the Second Report and the supporting Declaration of Brick Kane ("Kane Declaration") and Declaration of Gary Owen Caris ("Caris Declaration").

1 **II. STATEMENT OF RELEVANT FACTS**

2 The Receiver's First Report provides a detailed financial analysis of the entity I Works,
3 Inc. ("I Works"), wholly owned by Johnson, the \$50.6 million in operating profit before
4 depreciation generated primarily by I Works and its related and affiliated companies, and the
5 disbursement of \$50.4 million of that sum to Johnson individually, to third parties for the benefit
6 of Johnson, such as various casinos, and to other affiliated entities owned and controlled by
7 Johnson and which were used to acquire and take title to assets beneficially owned by Johnson.
8 (First Report, p. 5.) The First Report explains that Johnson used funds often booked as
9 distributions or capital withdrawals on I Works records to acquire assets for his benefit, title to
10 which was placed in the name of entities Johnson owned and/or controlled.

11 **A. Zibby, Zibby Flight and Orange Cat**

12 Principal examples of those entities owned and controlled by Johnson which were formed
13 by him and used to acquire assets for his benefit are (1) Zibby, LLC ("Zibby"), an entity in whose
14 name much of Johnson's real estate holdings were acquired and which is owned 50% by Johnson
15 and nominally 50% by his wife Sharla Johnson; (2) Zibby Flight Service, LLC ("Zibby Flight"),
16 an entity used to acquire and hold title to aircraft and which is owned 50% by Johnson and
17 nominally 50% by Sharla Johnson; and (3) Orange Cat Investments, LLC ("Orange Cat"), used to
18 acquire the multi-million dollar Hollister Property in Santa Monica, sold by the Receiver with
19 Court approval in February 2012, as well as a valuable houseboat named the PEPS I that is being
20 marketed for sale by the Receiver pursuant to the Court's Sale Authorization Order entered
21 August 26, 2011 (Doc. No. 288). The capital funding for Zibby, Zibby Flight and Orange Cat all
22 came from I Works (First Report, pp. 9, 11 and 12). Over half the capital withdrawals from I
23 Works for Johnson's benefit were paid to Zibby (approximately \$9.8 million), Zibby Flight
24 (approximately \$4.6 million), Orange Cat (almost \$4.1 million) and to fund payments for the
25 residential properties located at 529 S. Woodsvew Circle, Johnson's residence that was titled to
26 Zibby and is now titled to Sharla Johnson, and property located on Riverfront Road that is
27 presently titled to Johnson's parents, Kerry and Barbara Johnson (total of over \$8.3 million).
28 Based on the ownership and control exercised by Johnson over these entities, the source of

1 funding of these entities and therefore the source of funding for the underlying assets acquired by
2 these entities, all of these entities are Receivership Defendants as defined by the Preliminary
3 Injunction. The Court has already authorized the Receiver to market and sell certain of their
4 assets to preserve their value, because liens and volatile market forces diminish their value to the
5 estate, based on the ownership and control exercised by Johnson and the source of funding of
6 their assets. Further, based on the Receiver's financial reconstruction, Sharla Johnson has no
7 independent sources of income or assets other than very modest income from a fabric store
8 known as Quilted Works, Inc. ("Quilted Works") and the Receiver has found no assets or funds
9 contributed by Sharla Johnson to Zibby, Zibby Flight and Orange Cat notwithstanding her stated
10 50% ownership interest.

11 Zibby, Zibby Flight and Orange Cat are evidence of a pattern and practice of Johnson to
12 form entities to take title to assets beneficially owned by him, to fund those entities through
13 monies derived from I Works or other Receivership Defendants owned or controlled by Johnson
14 and to allow nominal ownership of all or a portion of the entity to be placed in the name of
15 another party, such as his wife Sharla in the case of those three entities. There are other entities
16 that also follow that pattern that are the subject of this Motion, including New Horizons Finance,
17 Inc. ("New Horizons"), Trigger LLC ("Trigger"), iPrerogative, Inc. ("iPrerogative") and SLI,
18 LLC ("SLI"), discussed in further detail below.

19 **B. Johnson Assets Bought, Sold and Traded in the Names of Other Individuals**

20 Johnson has also exhibited a pattern and practice of using other individuals to conduct
21 financial transactions, nominally manage assets, and buy and sell assets beneficially owned by
22 Johnson. For example, defendant Scott Leavitt ("Leavitt") has testified that Johnson had Leavitt
23 buy and sell approximately \$1.6 million worth of coins and precious metals belonging to Johnson
24 through Kitco. (Second Report, pp. 8-9; Caris Decl. para. 4.) The sales were transacted in
25 Leavitt's name, but the assets and proceeds belonged to Johnson and the sales were directed by
26 Johnson. (Second Report, pp. 8-9; Caris Decl. para. 4.) Similarly, Leavitt testified that Johnson
27 had used Leavitt along with other individuals, Defendants Scott Muir and Terrason Spinks, and
28 Johnson's wife Sharla Johnson to be nominal holders of securities trading accounts where the

1 monies in the accounts were funded by Johnson. (Second Report, p. 9; Caris Decl. para. 4.)
2 Another business associate of Johnson, Chad Elie (“Elie”), testified regarding Johnson’s
3 philosophy of asset protection at Johnson’s Detention Hearing conducted July 28, 2011 in the
4 federal district court in Utah, stating that Johnson “talked about keeping commodities, keeping
5 cash, keeping gold, keeping silver, to have, you know, assets that aren’t in your name.” (Caris
6 Decl. para. 3.). Johnson has implemented that philosophy of placing assets in the name of others,
7 as the evidence before the Court in the First Report, the Second Report and this Motion amply
8 demonstrates.

9 C. **Unusual Number and Nature of Financial Transactions with Todd Vowell,**
10 **Jason Vowell and Other Vowell-Related Persons and Entities Preliminarily**
11 **Noted in First Report**

12 The First Report noted that in addition to the \$50.4 million, the Receiver had discovered
13 approximately \$9.4 million in additional transfers of funds to or for the benefit of Johnson, for
14 total transfers of approximately \$59.8 million, primarily from entities controlled by Johnson,
15 Receivership Defendants Employee Plus, Inc. (“Employee Plus”) and Money Harvest, Inc.
16 (“Money Harvest”), as well as New Horizons and Triple Seven L.P., now known as Triple Seven
17 LLC (“Triple Seven”), an entity supposedly owned or managed by Todd Vowell¹ and his brother
18 Jason Vowell (the “Vowells”). (First Report, p. 17.) The First Report also commented on the
19 \$6.5 million note (the “Triple Seven Note”) given by Elite Debit, Inc. (“Elite Debit”) and Johnson
20 in favor of Triple Seven, secured by deeds of trust on the valuable Hollister Property, the
21 Johnsons’ 529 S. Woodsvie residence and five parcels of undeveloped land in St. George, Utah
22 that were the subject of the Receiver’s First Omnibus Sale Motion recently granted by the Court.
23 (See Doc. Nos. 469 and 516.) The First Report noted that there was no discernible evidence of
24 consideration for the Triple Seven Note. The circumstances and explanation for that note
25 provided by the Vowells is one set of facts that supports the Receiver’s conclusion that Triple
26 Seven and the other Primary Processors, as defined below, are owned and controlled by Johnson,

27
28 ¹ Todd Vowell is a certified public accountant, and his company Paydirt Capital, Inc. provides
accounting services. (Kane Decl., para. 15.)

1 and the circumstances concerning the Triple Seven Note are also part of a pattern of Johnson and
2 the Vowells creating phony debt obligations, manufacturing a “default” under the debt obligation
3 and then using the unpaid debt as a basis to transfer ownership of assets from Johnson to an entity
4 nominally owned and/or managed by the Vowells.

5 **D. Receiver’s Second Report**

6 The Receiver’s Second Report followed a more extensive investigation into the sums in
7 addition to the \$50.4 million in I Works and affiliate funds paid to or for the benefit of Johnson.
8 Rather than approximately \$9.4 million in additional suspect transfers of funds, the Receiver
9 discovered approximately \$51.4 million in net processing revenues generated by three primary
10 processing entities, Triple Seven, Powder Monkeys, LLC (“Powder Monkeys”) and Mastery
11 Merchant, LLC (“Mastery Merchant”), including money received under its dba Money Master for
12 Life (“Money Master”), and two other payment processing entities, Cerberus Management, LLC
13 (“Cerberus”) and Flying High Enterprises, LLC (“Flying High”) (collectively the “Payment
14 Processors” and with Triple Seven, Powder Monkeys and Mastery Merchant referred to herein as
15 the “Primary Processors”). (Second Report, p. 32.) The Receiver’s investigation discloses that
16 these net processing revenues were transferred from the Payment Processors to and through a
17 myriad of entities, most of which are nominally owned and/or managed by third parties, primarily
18 Todd Vowell and/or Jason Vowell, but which are beneficially owned and controlled by Johnson.
19 The Receiver’s Second Report concludes that net funds generated by the Payment Processors
20 were used to acquire, hold and/or transfer assets for or on behalf of Johnson, including numerous
21 aircraft and real properties, as well as to make payments to or for Johnson’s benefit to Las Vegas
22 casinos, to Johnson’s parents, and to a host of others. The Second Report describes the shift in
23 revenues from I Works to the Payment Processors at Johnson’s direction to conceal Johnson’s
24 interest in the Payment Processors and more important, Johnson’s beneficial ownership interest
25 and control over the downstream entities and assets they acquired in an apparent attempt to
26 remove them from the reach of the Receiver and other creditors. (Second Report, pp. 28-33.)
27
28

1 E. Transactions Far Outside the Bounds of Normal Business Activities or
2 Justification, Constituting A “Shell Game” of Entities and Asset Movement

3 The series of financial and business activities, transactions and transfers described in the
4 Receiver’s Second Report and this Motion have no legitimate business purpose that the Receiver
5 has been able to ascertain. Instead, the only rationale or motivation that explains the activities
6 and transactions analyzed by the Receiver is the intent to move and conceal tens of millions of
7 dollars in funds and assets purchased with those funds from the Receivership Defendants to third
8 parties acting as nominal title holders for the benefit of Johnson. The Receiver has not been able
9 to find any legitimate business purpose or financial basis (a) for the creation of large numbers of
10 entities in a short period of time, (b) for certain entities to have multiple sets of substantively
11 different organizational documents, (c) for numerous transfers of title to assets to be made over a
12 period of a few months, and (d) for funds to be moved through numerous bank accounts of
13 persons and entities that conducted no business activities and rendered no services that would
14 provide a valid explanation for the transfer of the funds to and through those accounts. The
15 financial records indicate that Johnson paid, or allowed the individuals who assisted him to retain,
16 some of the revenues and proceeds of assets in connection with their participation in the receipt
17 and transfer of funds and assets for his benefit.

18 The Receiver anticipates that persons and entities over which the Receiver seeks relief in
19 this Motion may file oppositions to this Motion claiming that the Receiver’s observations and
20 conclusions are flawed, inaccurate and/or incomplete. However, the Receiver also expects those
21 opposing the Motion to simply assert the Receiver’s findings are in error and to refuse to provide
22 evidence or testimony to support their position based on a claim that the pending threat of
23 criminal investigation “prevents” them from doing so. But unless plausible, justifiable
24 explanations are given to account for these transactions far outside the bounds of normal business
25 activities, the relief sought by the Receiver herein is mandated.

26 The Receiver has attempted to obtain explanations for these transactions from the persons
27 involved in the activities described in the Motion and the Second Report, including the Vowells,
28 Sharla Johnson, John Hafen (“Hafen”), Kerry and Barbara Johnson, Lloyd Melling (“Melling”)

1 and Arvin Lee Black, Jr. ("Black"). Some of those individuals, most notably the Vowells, have
2 refused to appear for deposition based on their intended assertion of their Fifth Amendment
3 privilege against self-incrimination; others who have appeared for deposition have provided
4 testimony that supports the Receiver's conclusions regarding the absence of any legitimate basis
5 for the activities and have also refused to provide details regarding many of the questionable
6 transactions based on the assertion of the Fifth Amendment privilege. The fact that those
7 involved in these highly suspect activities cannot or will not explain their actions only further
8 supports the Receiver's position that these entities and assets subject to this Motion need to be
9 placed in the custody and control of the Court through the Receiver to stop further movement of
10 funds and assets and to provide full access to the records that may explain these activities since
11 the persons involved will not. Prior to bringing this Motion, the Receiver made written demand
12 on the Vowells to turn over to the Receiver the funds and assets transferred to them and to entities
13 nominally under their control but beneficially owned or controlled by the Receivership
14 Defendants. The Vowells refused the Receiver's demand but again refused to provide any
15 substantive information justifying their refusal to comply. (Caris Decl. para. 16 and Exhibits 6
16 and 7 thereto.)

17 Sections III, IV and V of this Memorandum will detail the specific entities which the
18 Receiver's Second Report indicates satisfy the definition of Receivership Defendants within the
19 meaning of the Preliminary Injunction and why those entities meet the definition although the
20 Vowells or persons other than Johnson are nominally the owners and/or managers of those
21 entities.² Section VI of the Memorandum requests clarification of the Preliminary Injunction and
22 confirmation of its application to such entities such as Zibby, Zibby Flight and Orange Cat which
23 were the subject of the Receiver's First Report.

24

25

26 ² A list of entities and individuals with assets which are subject to the Receiver's request to
27 clarify and request for further instructions confirming their status as Receivership Defendants and
28 Receivership Property under the Preliminary Injunction with references to some of the portions of
the Receiver's Second Report or other evidence supporting that status is attached as Exhibit A to
this Memorandum.

1 **III. JOHNSON IS THE BENEFICIAL OWNER OF AND CONTROLS THE**
2 **PAYMENT PROCESSORS, AND THOSE ENTITIES CONSTITUTE**
3 **RECEIVERSHIP DEFENDANTS UNDER THE PRELIMINARY INJUNCTION**

4 **A. Payment Processing Business Originating with Receivership Defendants and**
5 **Relationship with SunFirst Bank**

6 SunFirst Bank ("SunFirst"), whose parent is SunFirst Corporation was a community bank
7 based in St. George, Utah. In the fall of 2009, the Federal Deposit Insurance Corporation
8 ("FDIC") issued a "cease and desist" order against SunFirst, requiring SunFirst to raise additional
9 capital. (Second Report, p. 17; Caris Decl., paras. 10, 11 and Exhs. 1 and 3.) At or about the
10 same time, Johnson approached SunFirst to open third party payment processing accounts at the
11 bank, utilizing remote check, or "Check21" technology. (Second Report, p. 18; Caris Decl. paras.
12 10, 11 and Exhs. 1-4.) SunFirst had never handled this type of payment processing, but the
13 proposed accounts offered SunFirst an opportunity to earn badly needed fee revenue. (Caris
14 Decl. paras. 10, 11 and Exhs. 1-4.) In addition, in December 2009 not long after the payment
15 processing accounts opened at SunFirst, Johnson purchased a total of \$3.4 million in stock
16 (425,000 shares) in SunFirst Corporation funded through the proceeds of a home equity line of
17 credit granted by SunFirst to Sharla Johnson secured by their residence at 529 S. Woodsvie
18 Circle and in part through funds in reserve accounts funded by I Works, Elite Debit and Money
19 Harvest. (Second Report, pp. 17-18; Caris Decl., paras. 10, 11 and Exhs. 1 and 3; Kane Decl.,
20 para. 18.) In August 2010, Johnson purchased \$1 million in additional stock in SunFirst
21 Corporation. (Second Report, p. 27.) The purchase of the stock in August 2010 was paid for in
22 part with a \$500,000 payment from funds in an account at SunFirst held in the name of Money
23 Harvest. However, most of the money in that account at the time of the payment can be traced to
24 funds from an account of Mastery Merchant (\$350,000) based on documents produced by
25 SunFirst. (Kane Decl., para. 18 and Exhs. 1 and 2.) Johnson is the sole owner of Elite Debit
26 (First Report, p. 6), while Loyd Johnston, an employee of I Works responsible for technical
27 services for I Works and other Receivership Defendants, is the nominal owner of Money Harvest.
28 (First Report, p. 7 and Kane Decl., para. 18.)

1 In another example of Johnson using nominees to hold assets beneficially owned and paid
2 for by Johnson or his entities, the 425,000 shares of stock acquired with the equity in Johnson's
3 residence and reserve account funds was titled to his brother, Andy Johnson, and the KB Family
4 Limited Partnership, owned by his parents Kerry and Barbara Johnson. (Second Report, p. 18;
5 Caris Decl., paras. 10, 11 and Exhs. 3 and 5.) A former SunFirst officer testified the transaction
6 was structured with Andy Johnson and the KB Family Limited Partnership as nominal owners of
7 the stock to avoid detection by the FDIC and to prevent Johnson from being deemed a "control
8 person" with 10% or more of the outstanding stock of SunFirst Corporation. (Caris Decl. paras.
9 10, 11 and Exh. 5; *see also* Caris Decl. Exh. 3.) It is noteworthy that the \$3.1 million line of
10 credit granted to Sharla Johnson, secured by their home and used to fund a large part of the
11 purchase price of the stock in the December 2009 transactions, was not approved in accordance
12 with SunFirst's loan policies and procedures, was not approved by the Director's Loan
13 Committee and is not reflected anywhere in the Director's Loan Committee Minutes. (Second
14 Report, p. 18; Caris Decl., paras. 10, 11 and Exh. 2.).

15 I Works and its shell companies as well as Elite Debit and Money Harvest provided
16 payment processing services for the Receivership Defendants and for other third party companies.
17 By early 2010, payment processing revenues showed a marked migration from I Works and its
18 related entities to Triple Seven, Mastery Merchant and Powder Monkeys as illustrated in the
19 graph at page 32 of the Second Report. Payment processing by these entities was performed
20 primarily at SunFirst. Two of the third party companies for which payment processing services
21 were provided were the offshore, on-line poker companies Full Tilt and Pokerstars. In February
22 2010, Johnson was notified by the FTC that he and his companies were under investigation, and
23 he was instructed not to make any out of the ordinary course transfers or sales of his assets. (App.
24 Tab 1.)

1 **B. Triple Seven Is Beneficially Owned and Controlled by Johnson**

2 Triple Seven was formed in late October 2009 as a limited partnership with Spyglass
3 Enterprises LLC³ and Katts, LLC⁴ as its partners. Triple Seven LP was succeeded by Triple
4 Seven LLC in the summer of 2010. Triple Seven's sole member became ePayment Solutions
5 LLC ("ePayment") and its managers are Todd Vowell and Jason Vowell. (Second Report, p. 45.)
6 The members of ePayment are Spyglass Enterprises and Katts. (Second Report, p. 45.)

7 When payment processing began at SunFirst in the late fall of 2009, one of the SunFirst
8 accounts was opened under Triple Seven LP "dba Elite Debit" and was subsequently changed in
9 November 2009 to Money Harvest Inc. "dba Elite Debit." (Second Report, p. 28, App. Tab 31.)
10 In February 2010, Johnson and Elite Debit purportedly executed and delivered to Triple Seven
11 their promissory note dated as of February 28, 2010 for \$6.5 million (the "Triple Seven Note"
12 referenced above) and secured the purported obligations of that note by deeds of trust on the
13 valuable Hollister Property, the Johnsons' 529 S. Woodsvie residence, and five parcels of
14 undeveloped land in St. George, Utah, effectively eliminating any equity in those assets if the
15 Triple Seven Note were deemed a valid debt obligation.

16 The Triple Seven Note was not a valid debt but instead a phony obligation created to
17 justify bogus encumbrances against some of Johnson's valuable assets to shield them from the
18 FTC and creditors. The Receiver's investigation to date has revealed that there is no valid
19 financial support and justification for the claimed \$6.5 million debt evidenced by the Triple Seven
20 Note. (Second Report, pp. 22-26; Kane Decl., para. 23.) Instead, Triple Seven became a
21 successor to Elite Debit's poker processing and other payment processing operations. Neither
22 Johnson nor the Vowells have provided a credible explanation for the creation of this
23 indebtedness, and the financial records reviewed by the Receiver in fact demonstrate no financial
24 basis for the creation of the debt.

25
26 ³ Spyglass Enterprises LLC ("Spyglass Enterprises") is a limited liability company that was
27 formed in 2004 with Jason Vowell and his ex-wife Dionna Vowell as its members, and in January
28 2009 Dionna Vowell was replaced as a member with John Hafen. (Second Report, p. 37.)

28 ⁴ Katts, LLC ("Katts") was a limited liability company formed in 2002 with Todd Vowell and his
28 wife Sheree Vowell as its members. (Second Report, p. 37.)

1 Johnson testified at his deposition conducted by the FTC on January 31, 2011 that the
2 Triple Seven Note was given because there was a “deficit” in the poker processing accounts that
3 were transferred to Triple Seven and that Elite Debit purportedly owed more on the poker
4 accounts than Elite Debit was transferring. (Second Report, pp. 25-26; Caris Decl. para. 5.) The
5 Receiver’s analysis of banking records for the Elite Debit processing accounts reveals no such
6 deficit, much less one in the amount of \$6.5 million. Johnson’s explanation for the Triple Seven
7 Note at his deposition only makes the Triple Seven Note even more suspect, since Johnson seems
8 to suggest Triple Seven was acquiring a valuable billing portfolio; yet, Triple Seven as “buyer” or
9 transferee paid nothing for the portfolio and instead became the holder of a \$6.5 million purported
10 debt instrument in its favor executed by the sellers as part of the transfer.

11 Further, Johnson’s explanation that there was a “deficit” is inconsistent with the
12 explanation and accounting given for the Triple Seven Note by the Vowells in response to
13 discovery propounded by the FTC early in this case. In response to that discovery, the Vowells
14 produced an accounting attempting to explain the calculation of the debt amount, the application
15 of payments and the remaining balance due under the debt instrument, including a spreadsheet the
16 substance of which is reproduced at page 24 of the Second Report. The documents also included
17 a Settlement Agreement between Triple Seven, on one hand, and Johnson and Elite Debit on the
18 other dated December 1, 2010 which provided for \$1,650,000 in gold coins and precious metals,
19 the equity in the Hollister Property and the equity in the parcels of raw land all to be transferred to
20 Triple Seven to be applied toward the balance due under the Triple Seven Note. (Second Report,
21 pp. 22-25.) Records obtained by the Receiver indicate that I Works and Johnson purchased
22 approximately \$2.25 million in precious metals between June 2006 and July 2008, and Johnson
23 purchased an additional \$1.43 million worth of precious metals from California Numismatic
24 Investments between February 24, 2010 and March 25, 2010, while a total of \$2,893,360.20 in
25 precious metals was transferred to Vowell entities Treadstone Partners L.P. (“Treadstone”),
26

27 ⁵ Treadstone was another of the Vowell entities formed in July 2010. (Second Report, p. 46.)
28 Although purportedly the only partners of Treadstone are other Vowell entities (Taggart
Management LLC (“Taggart”) is listed as the general partner, and Katts and Spyglass Enterprises
as limited partners), the account opening documents provided by TD Ameritrade for the

1 Katts and Spyglass Enterprises between August 23, 2010 and December 29, 2010 purportedly to
2 be applied to the outstanding “debt” under the Triple Seven Note. (Second Report, p. 69.)

3 A brief review of the accounting for the Triple Seven Note provided by the Vowells
4 strongly suggests the accounting was “manufactured” to try to support the existence of the
5 purported indebtedness and to justify the transfer of both the very valuable payment processing
6 portfolio as well as some of Johnson’s most valuable assets to entities nominally owned by the
7 Vowells. The accounting indicates the \$6.5 million “debt” amount was based on a series of what
8 the Vowells characterized as “advances” from January 6, 2010 through February 24, 2010, with
9 all advances occurring prior to the date of the Triple Seven Note (February 28, 2010). The
10 accounting for these “advances” is inconsistent with the series of IRS Form 1099s produced by
11 the Vowells attached as Tab 20 in the Appendix of Exhibits which show that sixteen of the
12 purported note advances from Triple Seven were accounted for as processing fee income of Elite
13 Debit. (Second Report, p. 26.) The accounting also shows sporadic additional “advances” to
14 Elite Debit and/or Johnson on March 1, 2010 (\$100,000), August 11, 2010 (\$1 million), October
15 5, 2010 (\$1,210,410 labeled “Full Tilt Payments to Jeremy Johnson”) and October 24, 2010
16 (\$1,002,600 labeled “Full Tilt Payments to Chad Elie”). The accounting shows multiple
17 payments credited on the debt although paid to Powder Monkeys and Mastery Merchant, the
18 other two Primary Processors, and payments credited to “interest” that are irregular and appear to
19 be “plug” numbers to make the figures tie to the \$6.5 million note amount and stated balance due.
20 The accounting also indicates a note secured by a deed of trust in the amount of \$308,000 owed
21 by Karen Beck to Johnson was assigned to Todd Vowell in July 2010 with the face amount
22 applied as a partial repayment on the Triple Seven Note, with the credit also including a purported
23 interest payment on the Triple Seven Note made on July 30, 2010. (Second Report, pp. 22, 24.)
24 Notably, an e-mail exchange between Johnson and Todd Vowell on December 17, 2010 discusses
25 the Karen Beck note and states that Karen Beck was going to sign a “revised” note. (App. Tab
26 49.)

27 Treadstone account show Johnson is one of the members and signatories on that account. (Kane
28 Decl., para. 26 and Exh. 3.) The members of Taggart are Katts and Spyglass Enterprises as of
September 2010. (Second Report, p. 46.)

1 The recent summary judgment motion filed by Elite Debit on May 9, 2012 only casts
2 further doubt on the validity of the Triple Seven Note and highlights the inconsistent stories that
3 have been spun by the Vowells and Johnson concerning these entities and the purported Triple
4 Seven debt obligation. (*See* Doc. No. 557.) The position taken by Elite Debit in the motion,
5 namely, that it only provided payment processing services for the list of entities identified on
6 Exhibit 2 to the motion, is factually inaccurate, undermines any financial basis for Elite Debit to
7 have executed a \$6.5 million note to Triple Seven and is completely inconsistent with the
8 explanations and accounting provided by Johnson and the Vowells, respectively, for the note
9 transaction and the transfer of millions of dollars in property to Triple Seven.

10 Johnson's continued involvement in Triple Seven and its payment processing business
11 long after Elite Debit and Johnson supposedly divested their ownership of the portfolio, and the
12 close, interrelated financial relationship of the entities, further undermine the explanation for the
13 purported sale of the processing business to Triple Seven and the supposed independent
14 ownership of Triple Seven by the Vowells. SunFirst officer Mont Humphries testified that Triple
15 Seven, Mastery Merchant and Powder Monkeys payment processing all went through Elite Debit
16 and that SunFirst's fees were paid from a reserve account established by Johnson. (Caris Decl.
17 paras. 10, 11 and Exh. 4.) As reflected in a series of e-mails dated between March 2010 and
18 November 2010, Johnson (1) reviewed and approved letters concerning payment processing for
19 on-line poker, (2) negotiated pricing of international wires with SunFirst used primarily for the
20 Pokerstars and Full Tilt poker processing payments, (3) paid a "consulting" fee of \$20,000 in
21 April 2010 to John Campos at SunFirst,⁶ and (4) continued to provide instructions on the handling
22 of the payment processing operations, invoicing from Elite Debit for processing fees to be paid to
23 Elite Debit and the consolidation of accounts for the poker processing. (Second Report, p. 27,
24 App. Tabs 21-24, 28-30; Kane Decl., para. 29.) Seven months after the Elite Debit billing
25 portfolio was supposedly sold to Triple Seven, in September 2010 Johnson entered into a
26 _____

27 ⁶ John Campos was a SunFirst officer who was indicted in the Southern District of New York
28 and recently pled guilty to a misdemeanor in connection with the on-line poker processing by
SunFirst. (Kane Decl. para. 29.)

1 Merchant Processing Agreement with SunFirst to which he was an express party along with
2 Triple Seven, Elite Debit, Mastery Merchant and Powder Monkeys “and Any [sic] and all account
3 holders, customers, clients, processing groups, etc. Now [sic] and in the future any of the
4 aforementioned Companies, recommended to the Servicer by Jeremy Johnson or any of his
5 companies or associations.” Johnson provided the template of this agreement to SunFirst
6 according to Mont Humphries. (Second Report, p. 27, App. Tab 27.) In October 2010, Johnson
7 was the decision-maker concerning a payment processing agreement entered into between
8 ePayment (dba Powder Monkeys) and Full Tilt. (Second Report, p. 27, App. Tab 28.) By that
9 time, ePayment had also nominally become the sole member of Triple Seven, replacing Katts and
10 Spyglass Enterprises. (Second Report, p. 45; Kane Decl. para. 29.) ePayment also became the
11 sole member of Mastery Merchant and Powder Monkeys. (Second Report, p. 45; Kane Decl.
12 para. 29.) Documents recently produced by Pacific Coast Bankers Bank, a correspondent bank
13 for SunFirst handling overseas wire transfers, show notices of wire transfers being sent to Jeremy
14 Johnson at his I Works e-mail account regarding a series of wire transfers referencing Mastery
15 Merchant and “Elite” to Sphene International and Vantage, the owners of the on-line poker
16 companies Full Tilt and PokerStars, and to Triple Seven Inc. between March 8, 2010 and July 20,
17 2010. (Kane Decl., para. 31 and Exh. 4.)

18 **C. Mastery Merchant and Powder Monkeys Are Beneficially Owned and**
19 **Controlled by Johnson and Are Part of A Common Enterprise with Elite**
20 **Debit and Money Harvest Owned and Controlled by Johnson**

21 Mastery Merchant was organized in 2007. Two different sets of organizational documents
22 were produced to the Receiver. The organizational documents produced by the Vowells show
23 Katts and Spyglass Enterprises as the members. However, the set produced by National Bank of
24 California, where Mastery Merchant had credit card merchant processing accounts, showed Lilhaf
25 Holdings, LLC (“Lilhaf Holdings”), an entity owned by Hafen, as the sole member. (Second
26 Report, pp. 29-30, App. Tabs 32, 33.) Notably, National Bank of California also produced for the
27 Mastery Merchant accounts at that bank a Bank Card/Check Services Application of Electronic
28 Clearing House, Inc. (ECHO) and related correspondence for “Mastery Merchant DBA Money

1 Master for Life” that show that Johnson was the guarantor of the credit card processing accounts
2 and had access to the processing and bank accounts of that entity. (Second Report, p. 30, App.
3 Tab 34.) Hafen asserted his Fifth Amendment privilege at his deposition in response to all
4 questions regarding Mastery Merchant. (Caris Decl., para. 12.)

5 After the February 19, 2010 investigation letter sent by the FTC to Johnson, three
6 additional payment processing entities affiliated with Johnson and the entities discussed above
7 were formed. Powder Monkeys was organized on April 27, 2010 and became one of the Primary
8 Processors through which on-line poker revenues were processed at SunFirst. Powder Monkeys
9 was nominally owned by Katts and Spyglass Enterprises, with the Vowells listed as managers.
10 (Second Report, p. 29.) Powder Monkeys also had payment processing accounts at SunFirst, and
11 Johnson’s exercise of control over Powder Monkeys included the activities described in
12 connection with Triple Seven above. Also, Johnson’s name and address at the Hollister Property
13 were used on the Powder Monkeys account statements and checks drawn on its account ending
14 6018 at SunFirst. (Second Report, p. 27, App. Tab 25.) Johnson’s participation in e-mails
15 showing he was the decision-maker regarding the ePayment Solutions dba Powder Monkeys
16 processing agreement with Full Tilt in October 2010 and in directing matters concerning the
17 consolidation of Mastery Merchant and Pstars accounts with Full Tilt and Powder Monkeys in
18 late November 2010 are further evidence of his control. (Second Report, pp. 27-28; App. Tabs
19 28, 30.)

20 Johnson’s beneficial ownership interest in and control over Powder Monkeys is also
21 demonstrated by the financial transactions it engaged in for Johnson’s benefit. For example, from
22 June 2010 through October 2010, Powder Monkeys, through Todd Vowell, paid the sum of
23 \$1,250,000 for the benefit of Johnson for Johnson to acquire an investment interest in an energy
24 company, JMD Energy Inc. (Second Report, p. 73; App. Tab 102.) The investment interest was
25 initially held by Johnson in his name, and then, without apparent consideration, Johnson
26 transferred his interest in JMD Energy to his father Kerry Johnson on June 2, 2010. (App. Tab
27
28

1 103.)⁷ Johnson's control over Powder Monkeys continued post-receivership when Johnson
2 personally directed a New York law firm retained to provide legal services for Powder Monkeys
3 to pay him the remaining retainer held by the firm. The firm issued a check payable to Johnson in
4 the sum of \$99,883, which Johnson deposited. Only after demand was made by the FTC on
5 Johnson to turn over the funds to the Receiver did the funds end up being routed to Powder
6 Monkeys and then were paid to the Receiver by stipulation with Powder Monkeys. (Kane Decl.,
7 para. 33 and Exh. 5 (Joint Stipulated Motion by the FTC and Powder Monkeys, LLC, Doc. No.
8 276).)

9 The financial records for Triple Seven, Mastery Merchant and Powder Monkeys show
10 those entities collectively generated net processing revenues of \$46.5 million net of chargebacks,
11 returns, bank fees, merchant reserve accounts and payments to the poker companies, excluding
12 the \$2.2 million in revenues generated in the name of Money Master, a fictitious business name
13 of Mastery Merchant as discussed below. Yet, notwithstanding the huge net revenues generated
14 by these entities, when Todd Vowell and Jason Vowell were deposed in July 2010 in connection
15 with separate litigation in a Utah state court action by Karen Grounds against their company
16 Executive Car Sales as well as the Vowells individually,⁸ and were asked about companies which
17 they owned and the financial condition of the enterprises they were involved in, neither Todd
18 Vowell nor Jason Vowell identified Triple Seven, Mastery Merchant or Powder Monkeys.
19 (Second Report, pp. 9-11; Caris Decl., paras. 7-8.) In fact, Jason Vowell could not explain with
20 any specifics or detail the nature of Spyglass Enterprises, other than to call it a "holding
21 company" of his, and could not identify or describe any of the assets it holds. (Second Report, p.
22 11, Caris Decl., para. 8.)

23
24
25 ⁷ On February 28, 2011, approximately three weeks after the Court issued the Preliminary
26 Injunction, Todd Vowell sent an e-mail to JMD Energy stating that Kerry Johnson no longer held
27 the interest in this company and that instead Elie and Johnson are to hold the interest equally.
(App. Tab 104.) The Receiver has served JMD Energy with the Preliminary Injunction and
demanded that the interest be held subject to the Receiver's rights and claims under that order.

28 ⁸ *Karen Grounds v. Executive Car Sales, Inc., et al.*, Fifth Judicial District Court, Washington
County, Utah, Case No. 100500136.

1 Jason Vowell also assisted Johnson in transferring some of the Primary Processors' funds
2 overseas to bank accounts in the name of Mastery Merchant LLC in Andorra and Triple Seven,
3 Inc. in Cyprus, totaling over \$5.5 million. (Second Report, pp. 68, 75; App. Tabs 92-94.) In a
4 September 27, 2010 e-mail from Jason Vowell to Johnson, Jason Vowell advises Johnson that
5 "Andorra is last on my world tour of visiting/opening accounts. The account will be open for
6 business October 14th." (Second Report, p. 68; App. Tab 91.) This is consistent with testimony
7 by Elie at Johnson's Detention Hearing in which Elie testified Jason Vowell told him Johnson had
8 asked him to go overseas to open bank accounts. (Caris Decl., para. 3.)

9 As set forth above, Money Master was a fictitious business name of Mastery Merchant
10 according to account records and related correspondence provided by National Bank of
11 California. Those records show Johnson's interest in that entity and his access and control over
12 its merchant accounts at that bank. (Second Report, pp. 29-30, App. Tab 34.) Money Master
13 generated payment processing revenues of \$2.2 million that are part of the total of \$51.4 million
14 in payment processing revenue beneficially owned by Johnson. On October 20, 2010, Todd
15 Vowell sent Johnson an e-mail advising him that "When the two accounts were set up with Card
16 Flex, we put them in the names of Lloyd Melling and John Hafen because they would not take
17 myself or Jason. Lloyd and John were a bit skeptical, but I told them that I would pay them 2%
18 of the net processing. Are you ok with that, or do I need to go back to them?" (Second Report, p.
19 50, App. Tab 68.) Melling's name was used as the nominal member of the processing entity
20 Cerberus, discussed below. This e-mail yet again shows Johnson's ownership and control over
21 Money Master and Cerberus, and Johnson's use of the Vowells and others to orchestrate a
22 scheme to conceal Johnson's interest in these entities and assets. It also supports the finding that
23 Johnson paid others a portion of the concealed property in exchange for their cooperation and
24 assistance in the scheme to hold and transfer assets for his benefit.

25 The Primary Processors essentially took over the payment processing business of I Works
26 and other Receivership Defendants as regulatory scrutiny of Johnson and his businesses
27 increased. The shift of revenues from I Works to the new entities nominally owned by others but
28 beneficially owned and controlled by Johnson is graphically set forth at pages 31 and 32 of the

1 Second Report. Johnson's ongoing involvement in the entities, their business activities and
2 decision-making regarding companies he supposedly had no interest in, the lack of any credible
3 or consistent explanation for the Triple Seven Note, the testimony by SunFirst officers, Fifth
4 Amendment assertions by numerous witnesses when questioned regarding Johnson's ownership
5 and involvement in the Payment Processors, and the documentary evidence obtained from the
6 Vowells and others demonstrate that Triple Seven, Mastery Merchant, Powder Monkeys and
7 Money Master are Receivership Defendants based on their status as affiliates and their ownership
8 and control by Johnson. The Receiver has subpoenaed Todd Vowell (once) and Jason Vowell
9 (twice) for deposition, both of whom have refused to appear for deposition and have advised the
10 Receiver they would invoke their Fifth Amendment privilege in response to any questioning.
11 (Caris Decl., para. 7.)

12 **D. Purported Sales of Cerberus and Flying High Billing Portfolios Are Also Part**
13 **of Johnson's Attempt to Shift Assets to Third Parties to Conceal and Remove**
14 **Them from Creditors**

15 Additional processing entities formed after the February 19, 2010 FTC letter to Johnson
16 are Flying High and Cerberus, formed in March 2010 and May 2010, respectively. Flying High
17 went through a series of unusual ownership changes from Jason Vowell (March 2010), to Sheree
18 Vowell, Todd Vowell's spouse (June 2010), to Katts and Spyglass (August 2010, with the
19 Vowells as managers), to Digital Currency LLC ("Digital Currency")⁹ (October 2010). (Second
20 Report, p. 38.) Cerberus also went through a series of ownership changes from Hafen as the
21 initial member (May 2010) to Melling,¹⁰ Jason Vowell's former father-in-law and a convicted
22 felon (June 2010), to the Vowells as members and managers (August 2010). (Second Report, p.
23 38.) Both Flying High and Cerberus entered into agreements with I Works dated June 15, 2010 to
24

25 ⁹ Digital Currency was formed on October 27, 2010 with Katts and Spyglass Enterprises as its
26 members and the Vowells as its managers. (Second Report, p. 38.)

27 ¹⁰ As set forth at page 51 of the Second Report and Tab 70 of the Appendix, Melling assisted in
28 the movement of funds through accounts he established at the direction of Todd Vowell and
without any business, financial or other justification other than concealing the funds through
multiple layers of transfers among bank accounts.

1 purchase a part of the I Works billing portfolio. Payment under the Flying High agreement was
2 made by a check for \$200,000 dated almost two months later (August 5, 2010) signed by Jason
3 Vowell, and payment under the Cerberus agreement was made by a check for \$300,000 dated
4 over three months later (September 27, 2010). (Second Report, pp. 19-21; Kane Decl. para. 38.)

5 Both of the payments for the “purchase” of the portfolios were funded not through
6 independent, outside funds but by the net processing revenues generated after the transfer, and
7 both payments were a small fraction of the total net processing revenues generated after the
8 portfolios were transferred. (Second Report, pp. 19-22.) In effect, I Works simply transferred
9 some of its payment processing to these two new entities and received some of those revenues
10 back from the transferees. The aggregate net processing revenues of Flying High and Cerberus
11 after deduction of the funds paid to I Works from the revenues and chargebacks and returns was
12 approximately \$2.2 million, an amount many times greater than the purported “purchase” price.
13 Cerberus and Flying High are also affiliates of I Works and the Receivership Defendants, are
14 beneficially owned and controlled by Johnson and therefore are Receivership Defendants within
15 the meaning of the Preliminary Injunction.

16 The shift of the I Works processing portfolio to the Payment Processors is consistent with
17 a pattern and practice of Johnson moving assets in which he had an interest to third party
18 nominees to protect them from discovery or recovery by creditors. The transfer back to I Works
19 of some net processing revenues generated when the portfolios were nominally transferred to the
20 newly formed entities is only a very small part of the much larger “shell game” orchestrated by
21 Johnson with the assistance of his close relatives and friends by which funds were transferred by
22 and among dozens of individuals and entities in transactions that have no business or other
23 legitimate explanation.

24 **IV. JOHNSON IS THE BENEFICIAL OWNER OF AND CONTROLS NUMEROUS**
25 **ENTITIES AND ASSETS IDENTIFIED IN THE SECOND REPORT AS**
26 **PROCEEDS OF THE IMPROPERLY TRANSFERRED PROCESSING BUSINESS**

27 The shift of the processing business from I Works, Elite Debit, and Money Harvest was
28 the first part of the scheme by which the \$51.4 million in processing revenues received by the

1 Payment Processors were transferred and concealed, often through several layers of transferees.
2 Numerous recently formed entities (at least 39 formed since February 2010 after the FTC issued
3 its investigation letter to Johnson) were often used to transfer funds and/or to acquire and take
4 title to assets for the benefit of Johnson. In other instances, some of the \$51.4 million in
5 processing revenues was routed through existing companies owned by the Vowells, relatives of
6 the Vowells, including their wives, Melling, Hafen and his companies, Sharla Johnson, and Kerry
7 and Barbara Johnson. Another portion of the \$51.4 million, approximately \$25 million, was
8 transferred to securities accounts at TD Ameritrade from which Black testified he and the
9 Vowells were purportedly day trading funds in those accounts. (Second Report, pp. 57-65.)
10 Approximately \$7.8 million was lost in these day trading activities. (Second Report, p. 58.)

11 The following summarizes the entities known to the Receiver at this time involved in the
12 routing of such funds and/or in obtaining nominal ownership of assets properly subject to the
13 receivership based on the source of funding and Johnson's beneficial ownership and control of
14 the assets. Most of these entities have no business operations or business purpose other than to
15 receive funds and then either transfer those funds to another person or entity or to use funds
16 received from another party to pay for and take title to an asset. In the case of pre-existing
17 entities of the Vowells, such as the Paydirt Group, discussed below, Katts, and Spyglass
18 Enterprises, those entities have been co-opted to participate in the routing and concealment of
19 funds and assets for Johnson's benefit, as described in the Second Report and summarized below.

20 **A. Real Properties and Entities Holding Real Properties**

21 Kombi Capital LP ("Kombi") was organized in March 2010 shortly after the FTC's
22 investigation letter. (Second Report, p. 40.) As in the case of other entities discussed above, the
23 Receiver has obtained two sets of organizational documents. One set shows Paydirt Capital, Inc.
24 ("Paydirt Capital") as the general partner with a 3% ownership and Katts and Spyglass
25 Enterprises, the limited partners, each holding 48.5% ownership. Another set of documents,
26 however, shows Sharla Johnson as the 98% owner and limited partner and Paydirt Capital as the
27 general partner with a 2% interest. (Second Report, p. 40; App. Tabs 45, 46.) Johnson testified
28 regarding Kombi at his January 2011 deposition by the FTC and stated that "most of the things

1 that we bought, that we purchased with Full Tilt's money were bought in Kombi Capital" and he
2 defined "we" as meaning "the Vowells, myself and Chad [Elie]." (Second Report, p. 40; Caris
3 Decl. para. 5.) Two additional sets of organizational documents show that Sharla Johnson's 98%
4 ownership interest (or the Katts/Spyglass Enterprises 97% interest) was later transferred to
5 National Endowment Association, allegedly a charitable organization which the Vowells may
6 have used as a tax shelter. (App. Tabs 87, 89.)

7 Kombi's source of funding was primarily Triple Seven, from which it received
8 approximately \$6.25 million between March 2010 and June 2010, as well as the other two
9 Primary Processors, which transferred over \$600,000 to Kombi. (App. Tab 47.) Kombi appears
10 to have been used by Johnson as a conduit for the transfer of funds and the acquisition of assets,
11 principally real properties. Funds from Kombi were used to acquire the real property located at
12 573 S. Woodsvie Circle, St. George, Utah (at least \$795,001), Springdale land, Rockville land,
13 and other real property purchases still being investigated. (Second Report, pp. 41 and 43; App.
14 Tab 47.) The 573 S. Woodsvie property was originally titled to Kombi on May 27, 2010.
15 (Second Report, p. 42; Kane Decl. para. 43 and Exh 6.) On December 23, 2010 a deed
16 transferring title to Lift Off Financial LLC ("Lift Off"), another entity formed in March 2010
17 nominally owned by the Vowells, was recorded. (Second Report, p. 42; Kane Decl. para. 43 and
18 Exh. 7.) On June 6, 2011, two deeds of trust were recorded against the 573 Woodsvie property,
19 a senior deed of trust in the amount of \$700,000 given by Lift Off to secure a note from Lift Off
20 and Jason Vowell to Billy's Limited LLC ("Billy's"), as to which the proceeds of the Billy's loan
21 of \$681,586.15 were sent to Kombi, and a second deed of trust in favor of Kombi stating it
22 secures a note by Lift Off to Kombi in the principal amount of \$1,105,689. (Second Report, p.
23 42; Kane Decl., para. 43 and Exh. 7.)

24 Further evidence of Johnson's beneficial ownership and/or control of Kombi was recently
25 obtained by the Receiver. Kombi is listed as the holder of a deed of trust in the amount of
26 \$365,000 against real property located at 620 East Main Street in Rockville, Utah ("Rockville
27 Property"), title to which is held by Johnson, and Kombi paid approximately \$364,000 toward the
28 purchase of that property. (Second Report, p. 43; Kane Decl. para. 43 and Exh. 9.) This property

1 is a single family residence and recently burned down. The Receiver obtained copies of two
2 notices concerning services for the Rockville Property from Rockville Pipeline Company and the
3 Town of Rockville, both of which were addressed to Kombi to the attention of Jeremy Johnson at
4 Johnson's residence at 529 S. Woodsvlew. (Kane Decl. para. 43 and Exh. 10).

5 Kombi also purchased approximately \$846,000 in precious metals from United Precious
6 Metal Refining on January 18, 2011, just 21 days after the Vowells supposedly sold \$1.65 million
7 in precious metals to United Precious Metal Refining, the proceeds of which were allegedly
8 applied to the Triple Seven Note debt. (Second Report, p. 41; Kane Decl. para. 44.) E-mails
9 produced by the Vowells include an e-mail between Johnson and Todd Vowell addressing the
10 Springdale and Elim properties. (App. Tab 49; Kane Decl. para. 44.) A net of approximately
11 \$1.8 million was transferred from Kombi to Powder Monkeys. (Second Report, pp. 40-43, App.
12 Tab 47; Kane Decl. para. 44.)

13 WCDI Land Development ("WCDI") is an entity formed in May 2010 that is wholly
14 owned by Kombi and was also used to purchase real property. WCDI was funded primarily by
15 Powder Monkeys (\$832,725.50), Mastery Merchant (\$252,875) and Kombi (\$410,000) during the
16 period from June 2010 through October 2010, and \$636,295 of these funds were routed to
17 Summerset Ranch LLC,¹¹ Kombi and Katts. (Second Report, p. 45; App. Tab 54.) Official bank
18 checks totaling \$1,338,735 issued by SunFirst and drawn on Powder Monkeys' account at
19 SunFirst were issued to United Title Services of Southern Utah, the fictitious business name of
20 CCD LLC, in June and July 2010, purportedly for the purchase of the Tabernacle Towers office
21 building where I Works was located, a property that was owned by Tabernacle Towers Holding
22 LLC, an entity owned 100% by Johnson. (Second Report, pp. 45-46; Kane Decl. para. 45.)
23 Johnson never signed the purchase contract for the purported sale of the property by Tabernacle
24 Towers Holding LLC to WCDI. (Second Report, p. 46.) The funds deposited with the title
25 company in connection with the proposed purchase were not returned to Powder Monkeys;
26 instead, at Todd Vowell's direction, a wire in the same amount as the funds deposited by Powder

27
28 ¹¹ Summerset Ranch, LLC ("Summerset") is another nominal Vowell entity formed in June
2010. (Kane Decl. para. 45.)

1 Monkeys with the title company was sent to and deposited by WCDI on July 31, 2010. (Second
2 Report, p. 46, App. Tabs 54, 55; Kane Decl. para. 45.) Summerset was also used to acquire real
3 property. Based on documents recently obtained by the Receiver through subpoena, Summerset
4 paid approximately \$532,000 toward the acquisition of a 2.5 acre property located at 1015 East
5 State Highway 9, Virgin, Washington County, Utah (the "Highway 9 Property"). (Kane Decl.
6 para. 45 and Exh. 11.)

7 Another real property entity formed in mid-2010 is Woodsvew Holdings, LLC
8 ("Woodsvew"). (Second Report, p. 48.) In May 2010, Johnson purchased the real property
9 located at 505 S. Woodsvew Circle, and then shortly thereafter transferred title to the property to
10 the entity Woodsvew, formed on June 10, 2010, in which he was the sole member. Funds for the
11 purchase of the property, \$663,902 were paid to escrow by Triple Seven. (Second Report, pp. 48-
12 49; Kane Decl. para. 46.) Johnson executed a note in favor of Katts and Spyglass Enterprises for
13 the same amount at about the same time with a maturity date of June 30, 2010, approximately 34
14 days after the date of execution, secured by a deed of trust on the 505 Woodsvew property. He
15 then entered into a purchase agreement with Katts and Spyglass Enterprises to "sell" his
16 membership interest in Woodsvew to those entities in satisfaction of the note debt. (Second
17 Report, p. 49, App. Tabs 62, 63; Kane Decl. para. 46.) This creation of a phony debt to Vowell
18 entities which Johnson did not repay and the Vowell entities obtaining Johnson's asset in
19 satisfaction of that debt is a mechanism similar to the Triple Seven Note and created for the
20 purpose of having a paper trail purportedly explaining the transfer of Johnson's assets. The
21 Woodsvew property was subsequently "sold" in December 2010 to Johnson's close friend Jason
22 Peterson, and then reconveyed to Woodsvew a few months later. (Second Report p. 49, App.
23 Tabs 64, 65; Kane Decl. para. 46.)

24 Other entities created nominally by the Vowells in 2010 after the FTC issued its
25 investigation letter to Johnson for the purpose of receiving and/or transferring funds and taking
26 title to real estate are: (a) Lift Off, discussed above in connection with the 573 Woodsvew
27 property, formed on March 1, 2010 with Jason Vowell as the member and manager; (b)
28 Summerset, with Katts and Liahona Academy for Youth ("Liahona") as its members according to

1 a public records search and the documents submitted in connection with the purchase of the
2 Highway 9 Property (*see* Second Report, p. 38 and Kane Decl. para. 47 and Exh. 11); and (c)
3 Paradise Ranch, formed on October 12, 2010 in Nevada with Taggart Management, LLC
4 (“Taggart”)¹² as the member and the Vowells as managers. (Second Report, pp. 6-7, 38, 46 and
5 76; App. Tabs 3, 12, 17 and 66.) In January 2012, Paradise Ranch was dissolved as a Nevada
6 entity and organized under new Articles of Organization as a Utah entity, with Brent Peterson as
7 the sole member and manager. Brent Peterson is Jason Peterson’s father. (Kane Decl. para. 47.)
8 Summerset received over \$100,000 from Flying High, and Paradise Ranch received over
9 \$370,000 from Flying High and over \$104,000 from Cerberus. (Second Report, p. 21.)
10 Documents obtained by the Receiver through subpoena show that in December 2010, Paradise
11 Ranch acquired four parcels located in Section 7, Township 42 South, Range 13 West, Hurricane,
12 Utah (“Hurricane Property”) for a purchase price of \$630,500, with seller take-back financing in
13 the approximate sum of \$435,000 and with Paradise Ranch funding \$200,000 toward the purchase
14 price through a \$100,000 withdrawal from its JP Morgan Chase account and the other \$100,000
15 provided in the form of two \$50,000 cashier’s checks. A note in the escrow file indicates that:
16 “Jeremy Johnson = Paradise Ranch Dev. LLC.” On February 14, 2012, after the Second Report
17 was filed, the defunct Paradise Ranch entity from Nevada purported to deed the Hurricane
18 Property to the newly created Paradise Ranch entity from Utah. (Kane Decl. para. 47 and Exhs.
19 12 and 13.)

20 **B. Aircraft and Aircraft-Related Entities**

21 Certain entities formed in 2010 after the FTC investigation letter were used to acquire
22 aircraft for the benefit of Johnson. Some of the entities were involved in the movement of funds
23 to pay for the aircraft, and others were formed to take title to the aircraft purchased with those
24 _____

25 ¹² Taggart was formed on July 20, 2010 and in its first two and a half months of existence, went
26 through a series of ownership and management changes in which John Hafen, the Vowells, Katts
27 and Spyglass Enterprises were involved, as explained in the chart at page 46 of the Receiver’s
28 Second Report. Taggart also was the nominal general partner or member/owner of several
entities, including Treadstone, Fishhook Partners LLC (“Fishhook”), Kingfish Management LLC
 (“Kingfish”), Dreamland Capital LLC (“Dreamland”), Paradise Ranch, Silvernix Holdings LLC,
 and Flatline Investments LP (“Flatline”). (Second Report, pp. 7, 46-47.)

1 funds. SRLA LLC was formed on August 2, 2010 with Todd Vowell as the sole nominal
2 member and manager. (Second Report, p. 7; Kane Decl. para. 48.) SRLA LLC and SRLA
3 Association LLC are the members of certain companies formed in 2010 for the purpose of
4 receiving title to various aircraft, including Alpha Yankee LLC (“Alpha Yankee”) (formed on
5 August 9, 2010), Choker Block, LLC (“Choker Block”) (formed on July 1, 2010)¹³, Scud Runner
6 LLC (“Scud Runner”) (also formed on July 1, 2010)¹⁴, and Omaha Eight LLC (“Omaha Eight”)
7 (formed on October 12, 2010) (collectively, the “Aircraft Entities”). (Second Report, pp. 7, 44
8 and 70-73; Kane Decl. para. 48.) These entities took title to various aircraft paid for with funds
9 from Powder Monkeys and two other entities formed in 2010 nominally owned and/or managed
10 by the Vowells, Phoenix Rising LLC (“Phoenix Rising”) (formed in March 2010) and Silvernix
11 Holdings LLC (“Silvernix”) (formed in October 2010). (Second Report, pp. 44 and 70-71.)

12 The banking records obtained by the Receiver demonstrate that Phoenix Rising and
13 Silvernix conducted no business activities other than to receive and transfer funds. (Second
14 Report, pp. 44, 71 and 72, App. Tabs 50, 66; Kane Decl. para. 49.) Phoenix Rising received
15 approximately \$2.1 million in net funds from affiliates, most of which came from the Primary
16 Processors, between March 2010 and August 2011. Of that sum, it paid a net amount of \$500,000
17 to AIC Title Service LLC in connection with the acquisition of aircraft by three of the Aircraft
18 Entities; namely, Choker Block (2006 Robinson R44 II helicopter, Registration No. 145PD paid
19 for in part by Phoenix Rising and in part by Powder Monkeys, *see* Second Report, p. 71), Alpha
20 Yankee (1982 Piper PA-60-602P, Registration No. 858CH) and Scud Runner (2004 Robinson
21 R44 II, Registration No. 34BK). (Second Report, p. 71; Kane Decl. para. 49.) The sum of
22 \$724,490 was paid by Silvernix in December 2010 to acquire title to a 2010 Robinson helicopter,
23 Registration No. 633AS, title to which was placed in the name of Omaha Eight. (Second Report,

24
25 ¹³ Although SRLA LLC was not formed until August 2, 2010, it is listed on the Choker Block
26 articles of organization as the member of that entity even though Choker Block was formed
27 earlier on July 1, 2010. There is a pre-existing entity, SRLA Association LLC, in which John
28 Hafen is listed as the member that was in existence since 2004. (Second Report, p. 7; Kane Decl.
para. 48.)

¹⁴ SRLA Association LLC is the listed member of Scud Runner, and Todd Vowell is listed as the
manager of Scud Runner. (Second Report, p. 7; Kane Decl. para. 48.)

1 pp. 71-72.) Similar to other transactions with Triple Seven, Kombi and Woodsview, discussed
2 above, Omaha Eight executed a security agreement in favor of Silvernix in connection with the
3 purchase. (Second Report, p. 72.) E-mail communications and related documents attached as
4 Tab 99 in the Appendix of Exhibits to the Second Report and the Aircraft Application for
5 insurance coverage for the Omaha Eight aircraft show the aircraft was owned by Johnson and
6 Todd Vowell. (Second Report, p. 72.) Omaha Eight sold that aircraft post-receivership in August
7 2011, and the proceeds of sale of \$695,562.50 were paid to SRLA LLC, not to Silvernix despite
8 the alleged security interest Silvernix held in that aircraft. (Second Report, p. 72.) These entities
9 clearly have no legitimate purpose other than to hold assets for the benefit of Johnson.

10 Another aircraft entity formed in May 2010 is Rotortrends Inc. (“Rotortrends”), an entity
11 nominally owned by Shane Scott and managed by defendant Kevin Pilon (“Pilon”) who also
12 formerly managed New Horizons. Rotortrends allegedly purchased two aircraft from
13 iPrerogative, an entity nominally owned by defendant Duane Fielding (“Fielding”) in August
14 2010 (according to Fielding’s financial statement) or June 2010 (according to title records
15 reviewed by the Receiver), one of which is the 2004 Robinson R44 II, Registration No. 7523S, an
16 aircraft that the I Works financial records show was paid for by I Works on January 15, 2010, at
17 least six months earlier. (Second Report, pp. 70-71.) Further, iPrerogative paid Upper Limit
18 Aviation over \$122,000 for maintenance for the other aircraft, a 1996 Robinson, Registration No.
19 N13HG, on January 13, 2011, months after the aircraft had been “purchased” by Rotortrends.
20 (Second Report, p. 71; App. Tab 96.) Rotortrends was also the named lessor of the 2005
21 Robinson R44 Raven II, Registration No. N321WT, title to which is held by Zibby Flight, in a
22 lease dated December 10, 2010 with Upper Limit Aviation, Inc. which resulted in approximately
23 \$114,000 in lease payments paid between January 2011 and June 2011. (Second Report, p. 70.)
24 The Receiver recovered most of those post-receivership lease payments as well as additional
25 lease payments made by Upper Limit Aviation based on demands on Pilon for turnover of those
26 payments. (Kane Decl. para. 50.) In the fall of 2011, Pilon, through Rotortrends, also attempted
27 to enter into a lease for the Robinson R44 Raven II helicopter, Registration No. N74367, titled to
28 Zibby Flight that had been located in the Dominican Republic. (Doc. No. 423-2 (Decl. of Kenton

1 Johnson, para. 3 and Exhibit 2 thereto) filed in support of Receiver's Motion to Compel
2 Turnover, etc. (Doc. No. 423.) Johnson refused to turn over that aircraft to the Receiver in
3 violation of the Preliminary Injunction, and Johnson was clearly in control of the helicopter while
4 Rotortrends was attempting to lease the aircraft. (Receiver's Motion to Compel Turnover, Doc.
5 No. 423; Decl. of Kenton Johnson, Doc. No. 423-2 and Order Granting Motion, Doc. No. 477.)
6 Rotortrends is yet another entity used to move and control assets and their proceeds beneficially
7 owned and controlled by Johnson.

8 **C. Persons and Entities Who Route Receivership Money**

9 Melling, Jason Vowell's former father-in-law, has worked for the Vowells as a handyman
10 since his release from prison. (Caris Decl., para. 13.) According to Melling's deposition
11 testimony and the banking records obtained by the Receiver, beginning in 2010 after the date of
12 the FTC's investigation letter, Melling opened accounts at Town and Country Bank, TD
13 Ameritrade and JP Morgan Chase pursuant to instructions from the Vowells. (Caris Decl., para.
14 13; Second Report, pp. 15-17, 51 and 62, App. Tab 70; Kane Decl. para. 52.) The Melling
15 accounts received approximately \$2.8 million (gross) from various entities, including Kingston
16 Enterprises (\$1 million) and Phoenix Rising (\$1 million), two nominal Vowell entities formed in
17 2010, \$695,000 (gross) from Powder Monkeys and \$195,000 (gross) from Triple Seven, which
18 Melling was instructed by the Vowells to then transfer to other persons and entities. (App. Tab
19 70; Kane Decl. para. 52; Caris Decl. para. 14.) The movement of funds through Melling's
20 accounts is summarized at Tab 70 of the Appendix to the Second Report. (See also Second
21 Report, pp. 15-17, 51 and 62; Kane Decl. para. 52.) Melling testified that he followed the
22 instructions of the Vowells in opening bank accounts and transferring funds to other persons and
23 entities as they directed. (Caris Decl., para. 14.)

24 Hafen also helped move approximately \$2.9 million in funds from Triple Seven to Hafen
25 in the three-month period from April to June 2010. (Second Report, p. 50; Kane Decl. para. 53.)
26 A total of approximately \$7.9 million was received by Hafen and two entities in which Hafen is
27 the manager, Lilhaf Holdings and Tiburon Enterprises, LLC ("Tiburon Enterprises") formed in
28 November 2010, most of which was transferred to others. (Second Report, p. 50; Kane Decl.

1 para. 53.) A large part of the \$7.9 million was received by Hafen and his entities from Triple
2 Seven, Black, Sole Group LLC, and Paydirt Capital. Approximately \$7.8 million of the funds
3 received by Hafen and his entities was subsequently transferred to TD Ameritrade, and about half
4 of that was lost from trading. A substantial portion of the remaining funds that were not lost were
5 transferred back from TD Ameritrade accounts and re-routed to Kombi, Treadstone, Paydirt
6 Management, and Silvernix and Arvin Lee Black accounts. (Kane Decl. para. 53.)

7 Several entities formed in 2010 had no business operations and had as their only purpose
8 the receipt and transfer of funds, sometimes for the purpose of purchasing assets with the received
9 funds. Often, the assets purchased with funds received by one entity were then titled to a
10 different and/or newly formed entity. For example, the financial reconstruction for Phoenix
11 Rising discussed above and found at Tab 50 of the Appendix to the Second Report shows it
12 received funds primarily from the Primary Processors and then transferred those funds to (a) an
13 account at TD Ameritrade (\$1 million), (b) a net payment of \$500,000 to AIC Title Service to pay
14 for aircraft subsequently titled to other entities, and (c) to fund gambling accounts at the Wynn
15 Las Vegas casino for Johnson (\$239,000) and Black (\$185,000). Similarly, Kingston Enterprises
16 LLC (“Kingston”), formed on March 1, 2010, received over \$1 million from Triple Seven and
17 transferred \$1 million to an account at TD Ameritrade. (Second Report, pp. 7, 45; App. Tab 51.)
18 The entity ePayment became the sole member of Triple Seven, Mastery Merchant and Powder
19 Monkeys through a series of corporate changes (Second Report, pp. 38, 45). That entity received
20 its funding from the Primary Processors, totaling over \$1.5 million and then transferred all but
21 \$100,000 of those funds to Katts (\$799,802), Spyglass Enterprises (\$381,270), and Silvernix
22 (\$275,000) in the period from August 2010 through July 2011. (App. Tab 53.)

23 Elite Asset Management, Inc. (“Elite Asset Management”) was organized on October 28,
24 2010 and is solely owned by Johnson. (Second Report, p. 48.) The financial reconstruction for
25 that entity’s account at SunFirst shows it received \$224,000 from the Primary Processors and
26 transferred most of those funds (\$168,320) to Flying High, one of the other Payment Processors,
27 and paid \$32,450.44 to Paydirt Management. (App. Tab 61.) Todd Vowell testified in July 2010
28 that Paydirt Management’s sole function was that it “used to own an airplane” and was no longer

1 a viable company. (Second Report, p. 10; Caris Decl. para. 7.) Elite Asset Management also
2 made a payment of \$21,758.44 to PNC Aviation Finance, the entity that financed a Eurocopter
3 and another fixed wing aircraft titled to Zibby Flight that the Receiver abandoned as
4 overencumbered. (App. Tab 61.)

5 The Vowells used existing entities which they nominally owned and controlled and newly
6 formed entities created primarily since February 2010 after Johnson became aware of the FTC
7 investigation to assist Johnson in transferring funds and assets in which he has an interest to other
8 entities nominally owned by the Vowells and others. Paydirt Capital is a Vowell entity that
9 appears to provide some accounting services for third parties, consistent with testimony by both
10 Todd Vowell and Jason Vowell at their depositions in the Karen Grounds litigation. (Second
11 Report, p. 34; Caris Decl., paras. 7 and 8.) However, Paydirt Capital along with related Paydirt
12 entities, Paydirt Management, Paydirt, L.P., and Paydirt Properties LLC (collectively the "Paydirt
13 Group") also were used as conduits to transfer money from I Works' payment processing
14 business, to make significant payments in 2010 for the benefit of Johnson for gambling activities
15 to the Wynn Las Vegas and Encore casinos totaling \$690,000, to buy \$551,000 in precious metals
16 from California Numismatic Investments and to transfer money for Johnson. (Second Report, p.
17 35.)

18 1. Paydirt Group

19 Johnson began shielding assets from creditors prior to 2010. Johnson entered into two
20 agreements with Paydirt Capital dated April 25, 2008 (20,000 subscribers for \$300,000) and
21 November 3, 2008 (40,000 subscribers for \$1 million), respectively, to transfer subscribers from
22 the I Works billing portfolio to Paydirt Capital. (Second Report, p. 19; App. Tabs 4-6; Kane
23 Decl. para. 57.) As in the case of the Cerberus and Flying High portfolio sales later, the supposed
24 purchase prices for the two portfolios were not paid with independent funds but rather were paid
25 from the net processing revenues generated by the transferred portfolio, and only \$840,000 of the
26 \$1 million purchase price for the second portfolio was paid. (Kane Decl. para. 57.) In fact,
27 Paydirt Capital had received approximately \$1.1 million in revenue from the billing portfolio by
28 April 15, 2008, ten days before the date of the first sale agreement and three weeks before the

1 purchase price of \$300,000 for the first portfolio was paid to I Works on May 7, 2008. (Second
2 Report, p. 19; App. Tab 7; Kane Decl. para. 57.) Paydirt Capital issued three checks between
3 November 7, 2008 and November 11, 2008 payable to I Works totaling \$840,000 for the second
4 portfolio, but by November 7, 2008, Paydirt Capital had already received \$2.1 million in revenue
5 from the portfolios. (Second Report, p. 19; App. Tab 7; Kane Decl. para. 57.) However, all of
6 the \$4.3 million in processing revenues under the billing portfolios purchased by Paydirt Capital
7 was received by I Works and then transferred to Paydirt Capital. (App. Tab 7; Kane Decl. para.
8 57.) As in the case of Cerberus and Flying High, the amounts generated by the transferred
9 portfolio (\$4.3 million) were many times greater than the amount “paid” for the portfolio.
10 (Second Report, p. 19, App. Tabs 5-7; Kane Decl. para. 57.)

11 The specific entities and ownership structures of the entities comprising the Paydirt Group
12 is described in detail in the Second Report at page 33. Although these entities were not newly
13 formed entities, whatever independent business purpose they may once have had was turned to
14 the purpose of receiving and transferring funds for Johnson and the Receivership Defendants.

15 Attached at Tab 36 of the Appendix to the Second Report is a preliminary consolidated
16 summary of receipts by the Paydirt Group and disbursements by the Paydirt Group from January
17 2006 through July 2011. The Paydirt entities were discussed by the Vowells in their testimony in
18 July 2010 in the Karen Grounds state court litigation against them. Paydirt Capital was described
19 by Todd Vowell as an entity that provides accounting services to local businesses in St. George,
20 Utah. (Second Report, p. 34; Caris Decl. para. 7.) As noted above, Todd Vowell testified falsely
21 that Paydirt Management’s only function was that it “used to own an airplane” and that it was no
22 longer viable as of July 2010. (Second Report, pp. 10, 35-36; Caris Decl. para. 7.) Paydirt
23 Properties LLC was described by Todd Vowell as having so little money that he was not drawing
24 a salary for his management of that entity, and Todd Vowell testified Paydirt LP was “an entity
25 that did investments from 2003 until 2007.” (Second Report, p. 10; Caris Decl., para. 7.)

26 The status of the entities comprising the Paydirt Group and the activities Todd Vowell
27 testified they engaged in do not justify or explain the financial activities shown on the Preliminary
28 Consolidated Summary of Cash Receipts and Disbursements (“Paydirt Financial Summary”)

1 attached at Tab 36 of the Appendix to the Second Report. The Paydirt Financial Summary shows
2 the Paydirt Group received a total of more than \$33 million from January 2006 through July 2011
3 including over \$7.3 million from named Receivership Defendants, over \$5.4 million from the
4 Primary Processors, over \$593,000 from Money Master, Cerberus and Flying High, over
5 \$559,000 from Kombi Capital, almost \$2.4 million from Katts and Spyglass Enterprises, entities
6 discussed in more detail below, and millions of dollars from other associated entities and
7 individuals. In turn, during that period, the Paydirt Group transferred to five Receivership
8 Defendants, including Zibby and Zibby Flight, \$2,850,038.61, paid an aggregate of \$946,147.16
9 to Johnson and to two Las Vegas casinos for the benefit of Johnson, and paid over \$210,000 to
10 Kerry Johnson and the KB Family Limited Partnership.

11 The Paydirt Group also paid over \$4,980,000 to Katts and Spyglass Enterprises, over \$6.7
12 million to Todd Vowell, Jason Vowell and their relatives, and over \$2.5 million to Hafen and his
13 relatives and affiliated entities. (Kane Decl. para. 61.) When asked at his deposition about his
14 work for the Vowells, Hafen testified that he worked for Liahona, that his annual salary was
15 \$55,200 and that he received a profit distribution of approximately \$4,500 in 2011 from Liahona.
16 (Second Report, p. 12; Caris Decl. para. 12.) Hafen's deposition was conducted on October 11,
17 2011, and he had already received over \$320,000 in payments from Paydirt Capital between
18 February and April 2011. (Kane Decl. para. 61.) Hafen asserted his Fifth Amendment privilege
19 and refused to respond to questions regarding payments made to him by Paydirt Capital or other
20 entities. (Second Report, p. 12; Caris Decl., para. 12.)

21 The Receiver's Second Report also includes summaries of receipts and disbursements for
22 the individual entities comprising the Paydirt Group by year from 2006 through 2010 and for the
23 first seven months of 2011 at Tabs 36 through 39. These financial summaries highlight the
24 unusual flow of funds to the Paydirt Group. The flow of funds includes more than \$4.9 million
25 transferred from the Receivership Defendants, primarily I Works, to Paydirt Capital between
26 2008 and 2010 and more than \$4.5 million received by Paydirt Capital from the Primary
27 Processors during that time frame. (App. Tab 37.) The summary of receipts and disbursements
28 for Paydirt Management is completely inconsistent with Todd Vowell's testimony, which

1 indicated the company had merely owned a plane which it sold in 2008. (Caris Decl. para. 7;
2 App. Tab 38.) In 2010, Paydirt Management had receipts of over \$214,000 and in the first seven
3 months of 2011, receipts of over \$418,000. A total of over \$160,000 of the \$214,000 received in
4 2010 came from Cerberus, Flying High and Elite Asset Management, Inc., and over \$401,000 of
5 the \$418,000 received in the first seven months of 2011 came from Hafen and his newly formed
6 entity Tiburon Enterprises LLC. (App. Tab 38; Kane Decl. para. 62.)

7 2. Katts, Spyglass Enterprises and Spyglass Holdings LLC

8 Other entities of the Vowells that had been in existence prior to 2010 but which began
9 participating in the movement of funds for Johnson and the Receivership Defendants are the
10 entities Katts, whose members are Todd Vowell and Sheree Vowell, and Spyglass Enterprises
11 whose original members were Jason Vowell and his ex-wife Dionna Vowell. In January 2009,
12 Hafen was substituted for Dionna Vowell as the other member of Spyglass Enterprises. (Second
13 Report, p. 37; Kane Decl. para. 63.) On March 1, 2010, the entity Spyglass Holdings LLC
14 (“Spyglass Holdings”) was formed with Jason Vowell as manager. (Second Report, p. 39.)
15 Katts, Spyglass Enterprises and Spyglass Holdings are referred to in the Second Report and in
16 this Motion as the “Katts Group.”

17 Katts and Spyglass Enterprises are identified as the members of numerous entities,
18 generally ones in which Todd Vowell and/or Jason Vowell are managers, including the three
19 Primary Processors as well as 12 other entities formed beginning February 17, 2010 identified in
20 the list at page 38 of the Receiver’s Second Report which have been involved in the movement of
21 funds and assets described in that Report, including Valentino Holdings, LP, Flying High,
22 Summerset, Woodsvew, ePayment, Taggart, Treadstone, Kingfish Management LLC
23 (“Kingfish”), Silvernix, Digital Currency, Flatline and Dreamland. Documents obtained by the
24 Receiver show that Katts and Spyglass Enterprises received a total of \$1,645,666.71 from United
25 Precious Metal Refining on or about December 28, 2010 from a sale of precious metals nominally
26 requested by the Vowells. These precious metals appear to be the same precious metals Johnson
27 supposedly agreed to transfer to the Vowells as part of the settlement of the phony Triple Seven
28 Note. (Second Report, p. 39; App. Tab 44.) The Katts Group’s summary of receipts and

1 disbursements shows a flow of funds into the three entities and outflow of funds to many of the
2 same entities and to other affiliates that defy explanation or logic. (App. Tab 43.) The Katts
3 Group received over \$4.4 million from the Payment Processors and over \$2.7 million from ten
4 other entities created in 2010, including over \$1.2 million from ePayment. Funds were sent to the
5 Katts Group by Treadstone, Taggart, Fishhook, Silvernix, Summerset, Dreamland, Digital
6 Currency, Commerce Financial LLC (“Commerce”) and Kingfish. In turn, the Katts Group
7 transferred over \$2.4 million to the Primary Processors, over \$2.3 million to the Paydirt Group,
8 and over \$3.4 million to 12 newly created entities organized in 2010, including routing funds to
9 Silvernix and SRLA LLC, entities involved in the aircraft purchases as discussed above. The
10 Katts Group also received over \$4.9 million from the Paydirt Group for net transfers from the
11 Paydirt Group of approximately \$2.6 million. (Kane Decl. para. 64.)

12 3. Other Persons and Entities Involved in the Movement of Funds

13 The financial summary of receipts and disbursements for the newly created entities at Tab
14 66 only further highlights that the purpose of the entities and transfers was to orchestrate an
15 elaborate shell game to move funds and assets that originated with the Receivership Defendants’
16 payment processing business and that ended with nominal title held in remote entities whose
17 nominal members and/or managers are the Vowells. The entities listed in Tab 66 of the Appendix
18 to the Second Report, a summary of receipts and disbursements, are Valentino Holdings LP,
19 Flying High, Cerberus, Phoenix Rising, Kingston, Lift Off, Vanquish Enterprises LLC, Attack
20 Productions LLC, WCDI, ePayment, Taggart, Treadstone, SRLA LLC, Paradise Ranch,
21 Fishhook, Kingfish, Silvernix, Dreamland, Elite Asset Management, Digital Currency and
22 Flatline, all of which have participated in this intricate process of moving funds and assets for no
23 legitimate business or financial purpose. As Tab 66 shows, approximately \$12,265,000 was
24 received by these newly formed entities, including direct revenue from the billing portfolios (\$2.7
25 million), net funds from the Primary Processors (over \$6.4 million), proceeds from the sale of
26 coins and precious metals (\$1.2 million) and through the return of funds from CCD LLC (United
27 Title) paid to CCD LLC by Powder Monkeys but returned by the title company to WCDI at the
28 direction of the Vowells (\$1.3 million). (Kane Decl. para. 65.) The Receiver is still investigating

1 the purpose of the disposition of much of the \$12,265,000. However, it is clear from the list of
2 payees that much of the funds were transferred to TD Ameritrade securities accounts (over \$4
3 million), and paid to real estate title companies and aviation entities in connection with the
4 purchase of real properties and aircraft. (App. Tab 66.; Kane Decl. para. 65.) Thirteen of the
5 entities formed after February 2010 involved in the movement of funds or acquisition of assets
6 were organized under Nevada law (WCDI, Summerset, ePayment, Spindletop Investments LLC
7 (“Spindletop”), Taggart, Treadstone, Fishhook, Kingfish, Paradise Ranch, Silvernix, Digital
8 Currency, Dreamland and Flatline). Curiously a recent Secretary of State search by the Receiver
9 indicates documents were filed on May 22, 2012 to dissolve five of those entities (ePayment,
10 Spindletop, Kingfish, Digital Currency and Dreamland). (Kane Decl. para. 65.)

11 Separate, standalone summaries of receipts and disbursements for many of the entities
12 covered in Tab 66 are also revealing and further evidence that the sole purpose of these entities is
13 to receive and re-route funds, to move title to assets to the names of entities remote from Johnson
14 although the origin of the funding for the assets is the payment processing business of I Works,
15 Elite Debit and other Receivership Defendants and/or the Payment Processors beneficially owned
16 and controlled by Johnson, and/or to make payments to or for the benefit of Johnson, often to
17 casinos. *See* App. Tab 50 (Phoenix Rising), Tab 51 (Kingston), Tab 53 (ePayment), Tab 54
18 (WCDI), Tab 56 (Taggart), Tab 57 (Treadstone), Tab 59 (Flatline), Tab 60 (Fishhook), Tab 61
19 (Elite Asset Management, Inc.). Inexplicable changes of ownership in short time periods after
20 formation involving Taggart, Katts and Spyglass Enterprises and the newly formed entities Flying
21 High, Cerberus, Dreamland, Silvernix, Kingfish and Woodsvew are summarized at pages 6 and 7
22 of the Second Report.

23 The Receiver’s Second Report also addresses at length a series of accounts to which
24 approximately \$25 million of the funds originating with the Payment Processors was sent and of
25 which approximately \$7.8 million was lost through trading losses when those TD Ameritrade
26 accounts were wound down and the funds transferred back to the various nominal Vowell entities.
27 (Second Report, pp. 57-65; App. Tabs 74, 76-84.) As set forth above, the account in the name of
28 Treadstone included documents showing signature authority on the account by Johnson.

1 Although Black did some of the trading on the accounts, Black testified that he did so as an agent
2 for the Vowells and he also testified that Todd Vowell and Jason Vowell themselves also traded
3 on these accounts. (Caris Decl., para. 15.) The transfer of funds into, through and out of the TD
4 Ameritrade accounts provides more evidence that the movement of funds was for purposes other
5 than ordinary business activities.

6 The funds and accounts at TD Ameritrade also were swept into what the Receiver has
7 preliminarily determined was a Ponzi scheme operated by Black and an entity he owned and
8 controlled known as Sole Group, LLC in which Hafen was also a participant. Hafen was a
9 member of many of the nominal Vowell entities (*see* App. Tab 67) and worked for the Vowells at
10 Liahona. (Second Report, p. 12; Kane Decl. para. 68; Caris Decl. para. 12.) Hafen, who testified
11 he earned approximately \$55,000 in annual salary at Liahona, refused to explain the more than
12 \$7.9 million in funds that were routed through bank accounts in his name and in the names of
13 Tiburon Enterprises and Lilhaf Holdings, both of which Hafen nominally controlled and was the
14 signatory on. (Second Report, p. 50; Caris Decl., para. 12.) While Tiburon Enterprises was
15 formed in November 2010, Lilhaf Holdings was formed prior to that in 2005 and his wife,
16 Mikelle Hafen, is the other named member. (Second Report, p. 50.) Like the Paydirt Group and
17 the Katts Group, this pre-existing entity, Lilhaf Holdings, was co-opted and used to route funds
18 without any apparent business or financial justification other than the purpose of concealing and
19 routing money.

20 **V. THE MOVEMENT OF ASSETS AND FUNDS BY JOHNSON, THE VOWELLS**
21 **AND OTHERS ACTING IN CONCERT WITH THEM HAS CONTINUED**
22 **NOTWITHSTANDING THE RECEIVER'S INVESTIGATION AND THE FILING**
23 **OF THE SECOND REPORT**

24 The Receiver has continued to investigate the movement of funds and assets since the
25 Receiver's Second Report was filed on February 3, 2012. The Receiver's ongoing investigation
26 has resulted in more evidence of an ongoing and brazen scheme to form new entities and move
27 funds and property to those entities from the entities addressed in the Receiver's Second Report.
28 For example, the Receiver has obtained documentation indicating that a new entity, Global Media

1 7, LLC (“Global Media”) was formed on January 31, 2012 with Angie Hazen as the nominal
2 member. (Kane Decl. para. 69 and Exh. 14.) Angie Hazen is Jason Vowell’s sister, according to
3 his testimony in the Karen Grounds action. (Caris Decl. para. 8.) Almost immediately after the
4 formation, on February 7, 2012, amended corporate documents were filed by Global Media
5 designating Darrin Hunt as the new sole member and manager. (Kane Decl. para. 69 and Exhibit
6 15.) JDK, Inc., an entity owned 100% by Johnson, used a fictitious business name, Heritage Auto
7 Group, and Darrin Hunt was the registered agent for that entity. (Kane Decl. para. 69 and Exh.
8 16.) The address listed for Darrin Hunt, the sole nominal member and manager, in the Global
9 Media corporate filing is 2356 E. River Road, Beaver, Utah, a property owned by Johnson.
10 (Kane Decl. para. 69 and Exhs. 17, 18.) More important, although the Vowells’ and Johnson’s
11 names do not appear on the corporate records, banking records obtained by the Receiver show
12 that Jason Vowell is a signatory on the new entity’s bank account at Bank of America. (Kane
13 Decl. para. 69 and Exh. 19.)

14 Another example of the ongoing movement of funds and assets pertains to the entity
15 Chateau Circle, LLC and related real property. The Receiver has obtained records indicating there
16 has been unusual activity concerning a single family residence located at 1627 Chateau Circle in
17 St. George, Utah (“Chateau Circle Property”). Title to the property was held by Jason and
18 Dionna Vowell until they recorded a quit claim deed to the property to Spyglass Enterprises on
19 December 18, 2008. (Kane Decl. para. 70 and Exh. 20.) On August 20, 2010, in connection with
20 a “short sale” of the Chateau Circle Property, Spyglass Enterprises granted a warranty deed to the
21 property to Brett Andreasen, the brother of Sheree Vowell (Todd Vowell’s spouse), and the
22 existing lender on the property accepted the net sale proceeds in satisfaction of its lien,
23 reconveying its deed of trust. (Kane Decl., para. 70 and Exh. 21.) Six days later, on August 26,
24 2010, Brett Andreasen recorded a warranty deed to the property conveying title to Chateau Circle,
25 LLC, an entity that received over \$32,000 in funds from Paydirt Properties LLC in 2010 (App.
26 Tab 39) as well as net funds of \$23,000 from Kombi Capital between December 2010 and March
27 2011 (App. Tab 47; Kane Decl. para. 70 and Exh. 22). The source of funds for the purchase of
28 the Chateau Circle Property by Brett Andreasen is under investigation by the Receiver. Brett

1 Andreasen is also listed as the sole member of Mountain Financial LLC, an entity which received
2 a net sum of \$287,500 from Kombi between April 2010 and September 2010. (App. Tab 47;
3 Kane Decl. para. 70.)

4 On January 31, 2011, Sheree Vowell entered into a written three-year rental agreement
5 with Chateau Circle LLC for her occupancy of the property from September 1, 2010 through
6 August 31, 2013. On March 1, 2012, a warranty deed to the property was recorded conveying
7 title from Chateau Circle LLC to Sheree Vowell. The warranty deed from Chateau Circle LLC to
8 Sheree Vowell was executed by both Brett Andreasen and Sheree Andreasen Vowell, both of
9 whom are identified as managers of that entity. Shortly thereafter, approximately 45 days ago,
10 Sheree Vowell obtained a new loan against this previously unencumbered property and received
11 loan proceeds of over \$407,000 which she deposited into her account at The Village Bank on
12 April 3, 2012. The Receiver has investigated the disposition of the proceeds of the refinance of
13 the Chateau Circle Property and determined that Sheree Vowell made two transfers to Todd
14 Vowell from her account at The Village Bank from the proceeds of the refinance, one in the sum
15 of \$61,000 on April 3, 2012 and one in the sum of \$270,000 on April 4, 2012. Todd Vowell then
16 withdrew the sum of \$270,000 in currency on the same date, April 4, 2012, from his account to
17 which the \$270,000 had been transferred. In addition to the refinance proceeds, Sheree Vowell
18 also made two other large deposits to her account at The Village Bank in late March 2012,
19 including a cashier's check in the sum of \$30,000 from her brother Brett Andreasen on March 20,
20 2012 and a check from Chateau Circle, LLC in the sum of \$134,000 on March 30, 2012, and
21 shortly thereafter transferred \$130,000 to Todd Vowell and withdrew \$31,500 herself through a
22 cashier's check. (These facts and the documents supporting the foregoing are discussed in
23 paragraphs 72 and 73 of the Kane Declaration in support of this Motion and in Exhibits 23
24 through 31 thereto.)

25 The Receiver has also recently obtained evidence of sales of additional precious metals by
26 Spyglass Enterprises and Global Media in December 2011 and in January 2012. These sales were
27 made through the entity McArthur Jewelers in St. George, Utah. Checks in the aggregate sum of
28 approximately \$358,000 pertaining to those sales of precious metals are attached as Exhibit 32 to

1 the Kane Declaration. (Kane Decl. para. 74.) The sales are being investigated by the Receiver to
2 determine the disposition of the sale proceeds.

3 There is overwhelming evidence that Johnson and a circle of close friends, family and
4 business associates are working together to take and transfer title to money and property
5 beneficially owned and controlled by Johnson and the other Receivership Defendants and to
6 continue to help Johnson transfer and conceal funds and property to prevent the Receiver from
7 gaining control of those assets and to hide the assets from the reach of creditors. The Second
8 Report and supporting documentation, as well as the documents and information the Receiver
9 continues to uncover, show that Johnson has used and continues to use the Vowells, Todd
10 Vowell's spouse Sheree Vowell, Hafen, and a never-ending supply of entities both old and new to
11 conceal and transfer his property.

12 As the evidence before the Court amply demonstrates, the only way to halt this "shell
13 game" is to bring all of the assets and entities discussed in this Motion *in custodia legis*, under the
14 custody and control of the Court through the Receiver. Only by bringing all entities that are
15 under the nominal ownership or control of the Vowells, Sheree Vowell, and Hafen and any other
16 persons acting on their behalf, can the entities, their assets, the sources of their funds and their
17 business activities be investigated so that it can be determined which entities, or which specific
18 business activities of those entities, are legitimate and independent of Johnson, if any, and which
19 are properly part of the receivership estate to be maintained and preserved pending the outcome
20 of this litigation.

21 **VI. THE PRELIMINARY INJUNCTION SHOULD BE CLARIFIED TO CONFIRM**
22 **THE STATUS OF OTHER ENTITIES AND ASSETS THAT ARE SUBSIDIARIES,**
23 **AFFILIATES, SUCCESSORS, ASSIGNS AND/OR ALTER EGOS OF THE**
24 **NAMED RECEIVERSHIP DEFENDANTS**

25 The Receiver also seeks an explicit order confirming that several entities and assets held
26 by Sharla Johnson in whole or in part are subject to the receivership under the Temporary
27 Restraining Order and Preliminary Injunction. Despite the evidence presented to the Court
28 through the Receiver's First Report and many motions filed by the Receiver over a period of over

1 nine months, Johnson continues to challenge the status of entities and assets owned by entities
2 such as Zibby, Zibby Flight and Orange Cat. Although Sharla Johnson has no apparent separate
3 income or assets, other than the Quilted Works business, Johnson has continued to challenge the
4 Receiver's possession and control of those assets. As the Receiver's First Report explains, the
5 source of funding for the capital and assets of Zibby, Zibby Flight and Orange Cat was I Works
6 and its related and affiliated entities. Johnson is a member of Zibby, Zibby Flight and Orange
7 Cat. He controlled their financial and other activities, and they had no business other than the
8 acquisition and disposition of real estate and aircraft, respectively, for the benefit of Johnson.
9 The First Report and other evidence before the Court further demonstrates that Sharla Johnson
10 also was a nominal title holder of assets and interests in entities for the benefit of Johnson and
11 whose funding derived solely from I Works and the other Receivership Defendants. In addition
12 to the clear examples of Sharla Johnson's nominal 50% interest in Zibby, Zibby Flight and
13 Orange Cat, the transfers of assets such as the 529 Woodsvie residence that had been titled to
14 Zibby and was transferred into the name of Sharla Johnson alone is more evidence of Sharla
15 Johnson's nominal ownership of assets in which Johnson is the beneficial owner and the funding
16 has been provided by the Receivership Defendants. Zibby, Zibby Flight, and Orange Cat are
17 indisputedly Receivership Defendants, and an order should issue confirming their status as
18 Receivership Defendants under the terms of the Temporary Restraining Order and Preliminary
19 Injunction to avoid further debate by Johnson. For the same reasons, an order should issue
20 confirming the assets of Sharla Johnson other than Quilted Works are subject to the receivership
21 under the Preliminary Injunction Order. (*See Kane Decl. para. 75-77.*)

22 Similarly, there are other entities whose assets were funded with funds from the
23 Receivership Defendants and which are under the control of Johnson. For example, the entity
24 New Horizons is nominally owned by Johnson's brother, Andy Johnson, a named defendant and
25 the person who became the nominal holder of 212,500 shares of SunFirst Corporation stock in
26 December 2009 with funding indirectly from Johnson, as discussed above. Although nominally
27 owned by Andy Johnson, New Horizons was managed by another defendant, Pilon. As the First
28 Report explains, of the approximate \$7 million in income generated by that entity from its

1 inception through December 31, 2010, approximately \$5.8 million, or 82.5% was contracted
2 payment processing income. Profits generated were primarily paid for outside service expenses,
3 including an aggregate of over \$2.2 million to I Works, Zibby and Johnson, and the outside
4 payroll expenses were paid to Employee Plus, a named receivership entity. (First Report, p. 13.)
5 The New Horizons books and records reflect loans from I Works and Johnson totaling
6 approximately \$565,000 classified as capital contributions. (First Report, p. 13 and Tab 11.)
7 Those capital contributions are the only sources of capital or equity interests listed on the New
8 Horizons balance sheet. The balance sheet of New Horizons also shows it owns a trailer park.
9 An order should issue expressly clarifying and confirming that New Horizons is a Receivership
10 Defendant as an affiliate or subsidiary of the Receivership Defendants. (See Kane Decl. para.
11 78.)

12 There are several other entities which Johnson formed pre-receivership which hold title to
13 certain assets and in which Johnson is the 50% stated member and owner but as to which the
14 source of funding for the assets was I Works or other named Receivership Defendants. These
15 entities include Trigger, owned 50% by Johnson and nominally owned 50% by defendant
16 Fielding. One of Trigger's assets is a 2008 Robinson R44 Raven II helicopter, Tail No. N41286.
17 Trigger was the nominal owner of the Robinson helicopter, which Johnson was using in Costa
18 Rica post-receivership despite the Receiver's demands for return of that aircraft for the purpose of
19 Johnson supposedly starting a helicopter business there and which has been turned over to the
20 Receiver for liquidation under the Sale Authorization Order. The Receiver has recently obtained
21 evidence of the source of funding for the helicopter, a deposit of funds from the named
22 Receivership Defendant Network Agenda, LLC. (Kane Decl., para. 79 and Exh. 33.)

23 SLI, owned 50% by Johnson and nominally 50% by Fielding, has a single asset, a trailer
24 park in Mendon, Utah that was being managed by Pilon but that is now under the administration
25 of the Receiver and listed for sale under the Sale Authorization Order. (Kane Decl. para. 80.)
26 The funds for the purchase of the Mendon trailer park by SLI came solely from the Receivership
27 Defendants I Works and Anthon Holdings, LLC, which each transferred 50% of the purchase
28 price to Zibby, which then funded the purchase price into escrow. (Decl. of Brick Kane in

1 support of Receiver's Reply to Opp. to Sale Authorization Motion, Doc. No. 250-1, para. 3-4 and
2 Exh. 4-5 thereto.) Another entity nominally owned by Fielding, iPrerogative, also participated in
3 a suspicious "sale" of a helicopter to Rotortrends as discussed above in the Aircraft section. The
4 Court should issue an order clarifying the Preliminary Injunction and confirming that
5 iPrerogative, SLI and Trigger are Receivership Defendants of the named Receivership
6 Defendants.

7 **VII. THE RECEIVER MAY REQUEST INSTRUCTIONS FROM THE COURT**
8 **REGARDING HIS POWERS AND DUTIES UNDER THE PRELIMINARY**
9 **INJUNCTION ORDER**

10 Despite the broad discretion granted to receivers in carrying out their duties, a receiver can
11 and should seek instructions and direction from the Court as the receiver deems necessary or
12 appropriate in the course of administration of a receivership:

13 Receivers have a very large latitude in the matter of asking advice
14 and seeking the protection of the court appointing them with
15 reference to the discharge of their duties. They are at all times
16 entitled to apply to the court for instructions.

17 *2 Clark on Receivers* § 361, pp. 618-619 (3rd ed. Rev. 1992).

18 A receiver must fully inform the court as to the facts of major transactions and seek
19 instructions from the court regarding such transactions. *Haines v. Buckeye Wheel Co., et al.*, 224
20 F. 289, 294 (6th Cir. 1915). Court approval of the Receiver's actions and requests is consistent
21 with federal receivership practice as required by Federal Rule of Civil Procedure, Rule 66. The
22 Court has wide latitude in supervising the Receiver and may provide for the administration of the
23 receivership as it deems appropriate. 13 *Moore's Federal Practice*, § 66.06[4][a], p. 66-22
24 (Matthew Bender 3d ed. Rev. 2012). The purpose of the receivership laws is to give the Court
25 broad authority pursuant to its general powers of equity to issue orders as necessary for the
26 administration of the estate. The equity powers of the District Court to issue orders pertaining to
27 the administration of a receivership estate were discussed at length by the Ninth Circuit in
28

1 *Securities and Exchange Commission v. Hardy*, 803 F. 2d 1034 (9th Cir. 1986). In its decision,
2 the Court articulated two overriding principals of law:

3 First, a district court's power to supervise an equity receivership
4 and to determine the appropriate action to be taken in the
5 administration of the receivership is extremely broad. . . . The basis
6 for broad deference to the district court's supervisory role in equity
7 receiverships arises out of the fact that most receiverships involve
8 multiple parties and complex transactions. . . . Secondly, we have
9 acknowledged that a primary purpose of equity receiverships is to
10 promote orderly and efficient administration of the estate by the
11 district court for the benefit of creditors. [Citations omitted.]
12 Accordingly, we generally uphold reasonable procedures instituted
13 by the district court that serve this purpose. [Citations omitted.]

14 *Securities and Exchange Commission v. Hardy*, 803 F. 2d at 1037-1038.

15 **VIII. THE COURT MAY CLARIFY THE SCOPE OF THE PRELIMINARY**
16 **INJUNCTION AND ITS APPLICATION TO SUBSIDIARIES, AFFILIATES,**
17 **SUCCESSORS, ASSIGNS AND/OR ALTER EGOS OF THE NAMED**
18 **RECEIVERSHIP DEFENDANTS PURSUANT TO THE PRELIMINARY**
19 **INJUNCTION AND APPLICABLE RECEIVERSHIP LAW**

20 Based on the broad supervisory powers and discretion of the federal district court in an
21 equity receivership, the Court has the power to determine the scope of the entities and assets
22 subject to the Court's receivership order and to clarify its order to apply to non-party entities. *In*
23 *re San Vicente Medical Partners, Ltd.*, 962 F. 2d 1402 (9th Cir. 1992); *Securities and Exchange*
24 *Commission v. Elmas Trading Corp.*, 620 F. Supp. 231 (D. Nev. 1985), *aff'd* 805 F. 2d 1039 (9th
25 Cir. 1986); *Securities and Exchange Commission v. Private Equity Management Group, Inc.*,
26 2009 WL 1941400 at *1 (C.D. Cal. July 2, 2009) and related decisions at 2009 WL 2488044 at *1
27 (C.D. Cal. August 10, 2009) and 2009 WL 3074604 at *1 (C.D. Cal. September 21, 2009). The
28 Federal Trade Commission, like the Securities and Exchange Commission involved in the

1 foregoing decisions, brings civil enforcement actions such as this case to protect the interests of
2 the public and consumers who are alleged to have suffered financial injury through their dealings
3 with the Defendants, and is entitled to ancillary relief such as the appointment of a receiver to
4 protect the public interest and those of potentially injured consumers. The scope of the
5 receivership estate in such cases may similarly be extended to non-parties. *See Federal Trade*
6 *Commission v. Productive Marketing, Inc.*, 136 F.Supp.2d 1096, 1103 (C.D. Cal. 2001) (finding
7 non-party and receivership assets in the possession or control of the non-party are bound by *in*
8 *rem* provisions of preliminary injunction and receivership and non-party subject to contempt for
9 failure to turnover assets to receiver), citing *Securities and Exchange Commission v. Wencke*, 622
10 F. 2d 1363, 1371 (9th Cir. 1980) (“The Supreme Court has repeatedly emphasized the broad
11 equitable powers of the federal courts to shape equitable remedies to the necessities of particular
12 cases, especially where a federal agency seeks enforcement in the public interest”).

13 While the Receiver does not believe that the Court needs to analyze the scope of the
14 receivership in this case under an alter ego analysis given the relationship of the entities and
15 assets and the terms of the Preliminary Injunction which expressly include “subsidiaries,
16 affiliates, successors and assigns” of the named Receivership Defendants, the Court in *Securities*
17 *and Exchange Commission v. Elmas Trading Corp.*, 620 F. Supp. 231, makes it clear that under
18 federal law in the receivership context, the alter ego factors are applied flexibly based on the
19 purposes of the receivership in a civil enforcement action by a governmental regulatory agency:

20 [T]he Receiver’s primary objective in this case is to ensure that all
21 available assets are brought within the Receivership and may then
22 be properly distributed to creditors. We will, therefore, apply a
23 more flexible approach in determining whether the corporate entity
24 should be disregarded.

25 *Securities and Exchange Commission v. Elmas Trading Corp.*, 620 F. Supp. at 234.

26 Even if applicable, many of the factors highlighted by the Court in *Elmas Trading Corp.*
27 at pages 233 and 234 of that decision and in the other decisions cited above apply with equal
28 force in this case. As the Second Report and the evidence in support of this Motion make clear,

1 Johnson has used numerous individuals and entities to transfer, conceal and dispose of assets
2 belonging to the named Receivership Defendants, has exercised management and control over
3 those entities, and in many instances has commingled the assets belonging to the named
4 Receivership Defendants with those belonging to the other individuals and entities. Other factors
5 cited by the Court in *Elmas Trading Corp.* are also present in this case, including confusion in the
6 records of the entities involved (such as entities with different sets of organizational documents),
7 common identity of equitable ownership in the entities, the fact the limited liability companies are
8 mere shells, instrumentalities or conduits for a single venture or business of Johnson and the
9 Receivership Defendants, the concealment and misrepresentation of the responsible ownership,
10 management and financial interests of those involved in these entities, and the diversion of assets
11 to and through these entities to the detriment of potential creditors of the receivership estate. *See*
12 *Securities and Exchange Commission v. Elmas Trading Corp.*, 620 F. Supp. at 234. The financial
13 transactions detailed in these voluminous records defy legitimate business or financial
14 explanation, and as in *Elmas Trading Corp.*, the Receiver in this case has not been able to find
15 "records of legitimate business purposes" for these transactions. The evidence is overwhelming
16 that the entities and assets identified in Exhibit A are within the scope of the receivership estate
17 under the terms of the Preliminary Injunction based on their control by Johnson and their
18 knowing participation in an improper scheme by Johnson to evade the Preliminary Injunction by
19 concealing, transferring and disposing of assets in which he and the other named Receivership
20 Defendants have an interest.

21 **IX. NOTICE OF THIS MOTION IS SUFFICIENT UNDER THE CIRCUMSTANCES**
22 **AND SHOULD BE APPROVED**

23 Local Civil Rule 66-5 provides for service of notice of the hearing on various motions by
24 a Receiver concerning the administration of the estate. That rule provides for service of the
25 notice of hearing on such motions on all creditors of the receivership estate. No hearing has been
26 set on this Motion, and the provisions of Local Civil Rule 66-5 do not specifically apply.
27 Nevertheless, the Receiver has served a notice of filing of the Motion on the parties and on all
28 known non-consumer creditors of the estate, the FDIC as receiver of SunFirst and on known

1 taxing authorities with a potential claim in the receivership estate (“Notice Parties”), to provide
2 them notice and an opportunity to be heard concerning the Motion. This notice is consistent with
3 notice previously approved by the Court in this case.

4 There are believed to be an extremely large number of potential consumer creditors who
5 may have claims against the Receivership Defendants arising out of the business operations of the
6 Receivership Defendants prior to the Receiver’s appointment, although the precise number,
7 identity and location of such consumer creditors have not been determined by the Receiver at this
8 time. Given the Receiver’s determination that more than \$332.5 million¹⁵ in sales revenues were
9 generated by I Works and the related and affiliated entities, the number of consumer creditors is
10 likely in the tens of thousands. It is not realistically possible or beneficial to the estate and its
11 creditors for the Receiver to attempt to identify and serve the potential consumer creditors with
12 notice of this Motion, and the expense and burden on the estate of attempting to effectuate such
13 service would drain the estate’s resources and cause undue administrative expense.

14 To the extent that Local Rule 66-5 applies to this Motion, the Receiver seeks an order that
15 notice of this Motion is sufficient if notice of the filing of the Motion is given by serving copies
16 of all motion papers on the parties to the action and by serving copies of the notice of filing of the
17 motion on the Notice Parties identified above. The Receiver submits that such service provides
18 sufficient notice and an opportunity for hearing to the interested parties and should be approved
19 as adequate.

20 There is ample authority for approval of the scope and method of notice as set forth above.
21 This Court, as a court of equity supervising the receivership estate, may make appropriate
22 administrative orders governing the receivership, including limitations on and changes in notice
23 and other procedures. *See* F.R.Civ.P. 5(a) and (c) (authorizing the court to modify service
24 procedures when numerous defendants are involved in litigation). In addition, pursuant to Local
25 Rule 66-10, a receiver is directed to administer receivership estates “as nearly as may be in
26 accordance with the practice in the administration of estates in Chapter 11 bankruptcy cases.”

27
28 ¹⁵ This figure does not include tens of millions of dollars in additional revenues addressed by the
Receiver in the Second Report and this Motion.

1 Orders limiting notice when the Bankruptcy Code or Rules would otherwise require notice to all
2 creditors are routinely granted in bankruptcy cases to promote the expeditious and economical
3 administration of bankruptcy estates. See *In re First Alliance Mortgage Co.*, 269 B.R. 428, 442
4 (C.D. Cal. 2001) (referencing in *dicta* in the court's recitation of facts the bankruptcy court's order
5 limiting notice issued in that case); 11 U.S.C. section 102(1)(A) (defining the phrase "after notice
6 and a hearing" to mean "after such notice as is appropriate in the particular circumstances, and
7 such opportunity for hearing as is appropriate in the particular circumstances"); 11 U.S.C. section
8 105(a) and (d) (granting broad equitable powers to the court to issue orders "necessary or
9 appropriate to carry out the provisions" of title 11 including "prescribing such limitations and
10 conditions as the court deems appropriate to ensure the case is handled expeditiously and
11 economically"); and F.R. Bankr. P. 2002(m) (authorizing the court to enter "orders designating
12 the matters in respect to which, the entity to whom, and the form and manner in which notices
13 shall be sent except as otherwise provided by these rules").

14 **X. CONCLUSION**

15 For the foregoing reasons, it is respectfully requested that the Court grant relief as
16 requested in the Motion.

17
18 Dated: May 30, 2012

RANDOLPH L. HOWARD
KOLESAR & LEATHAM, CHTD.

MCKENNA LONG & ALDRIDGE LLP
GARY OWEN CARIS
LESLEY ANNE HAWES

22
23 By: /s/ Gary Owen Caris
Gary Owen Caris

24
25 Attorneys for Receiver
ROBB EVANS OF ROBB EVANS &
ASSOCIATES LLC

EXHIBIT A

EXHIBIT A**I Works Receivership Entities and Individuals**

Entity/Individual Name	Report / Evidence References*
Alpha Yankee LLC	Second Report, pp. 7, 44, 71; App. Tab 50; Kane Decl., paras. 48, 49
Attack Productions LLC	Second Report, p. 6; App. Tabs 17, 35, 36, 66
C2 Holdings, LLC	App. Tab 36
Capital Energy Corporation	App. Tabs 17, 35, 36
CECJ Enterprises LLC	Second Report, p. 6
Cerberus Management LLC	Second Report, pp. 6, 19-22, 32; App. Tabs 12, 66; Caris Decl., para. 14; Kane Decl., paras. 38, 39, 47, 62
Chateau Circle LLC	Kane Decl., paras. 70-73 and Exhs. 20-31
Choker Block LLC	Second Report, pp. 7, 44, 71; Kane Decl., paras. 48, 49
Commerce Financial LLC	Second Report, pp. 21, 38; App. Tabs 17, 35, 36, 43; Kane Decl., para. 64
Destiny Marketing LLC	Second Report, p. 6
Digital Currency LLC	Second Report, pp. 7, 21; App. Tabs 12, 17, 43, 66; Kane Decl., paras. 38, 64, 65
Dreamland Capital LLC	Second Report, pp. 7, 46, 47, 64; App. Tabs 43, 59, 66
Elite Asset Management LLC	Second Report, pp. 7, 21, 36, 48; App. Tabs 61 and 66; Kane Decl., paras. 55, 62
ePayment Solutions LLC	Second Report, pp. 7, 27, 45; App. Tabs 53, 66
Executive Auto Group	App. Tabs 35, 36, 43
Executive Car Sales, Inc.	Second Report, pp. 9, 10, 34, 35, 67
Executive Service Center LLC	App. Tabs 36, 43
Fishhook Partners LLC	Second Report, pp. 7, 12, 46, 48, 54, 63; App. Tabs 60, 66
Flatline Investments LP	Second Report, pp. 7, 47, 48, 64; App. Tabs 59, 66
Flying High Enterprises LLC	Second Report, pp. 6, 21, 32; App. Tabs 17, 66; Kane Decl., paras. 38, 39, 47
Global Media 7 LLC	Kane Decl., para. 69 and Exhs. 14-19
Hafen, John, Assets of	Caris Decl., paras. 12, 13; Second Report, pp. 21, 49-51; Kane Decl., paras. 21, 30, 53, 68
IC Development LLC	App. Tabs 35, 36
Interstate Lending LLC	App. Tabs 35, 36, 43
iPrerogative Inc.	Second Report, pp. 6, 70-71; Kane Decl., para. 50
Jason T. Vowell Sole Prop. Gigs	App. Tab 36

Entity/Individual Name	Report / Evidence References*
	26, 38, 61, 63, 64; Caris Decl. paras. 7, 8
Kingfish Management LLC	Second Report, pp. 7, 46-47; App. Tabs 43, 66; Kane Decl. paras. 64, 65
Kingston Enterprises LLC	Second Report, pp. 6, 45; App. Tabs 51, 66; Kane Decl. paras. 52, 54
Kombi Capital LP	Second Report, pp. 6, 40-43; App. Tabs 47, 66; Kane Decl., paras. 42-43; Caris Decl. para. 5.
Liahona Academy for Youth LLC/LP	Caris Decl., para. 12; App. Tabs 35, 36, 43; Kane Decl., paras. 61, 68
Liahona Holdings LP	Second Report, p. 38; App. Tabs 36, 51, 66
Lift Off Financial LLC	Second Report, pp. 6, 42; App. Tabs 17, 66, Kane Decl., para. 43
Lilhaf Holdings LLC	Second Report, pp. 49-51, 54; App. Tabs 35, 36, 66; Kane Decl. paras. 30, 68; Caris Decl. para. 12
Market Mastery Trading LLC	Second Report, p. 38; App. Tabs 36, 43
Mastery Merchant, LLC and dba Money Master for Life	<i>passim</i>
Moneymaker Strategies LLC	Second Report, p. 6
Mountain Financial, LLC	Second Report, pp. 42, 77; App. Tab 47; Kane Decl., para. 70
Omaha Eight LLC	Second Report, pp. 7, 71-72; Kane Decl. paras. 48, 49; Caris Decl. para. 13
Online Weight Loss	App. Tabs 35, 36
Paradise Ranch Development LLC	Second Report, pp. 7, 21; App. Tabs 12, 17, 35, 56, 57, 66, Kane Decl., para. 47
Paydirt Capital, Inc.	Second Report, pp. 33-35; App. Tabs 37, 66; Kane Decl. paras. 42, 57-62; Caris Decl. paras. 7, 8
Paydirt Management, Inc.	Second Report, pp. 33, 35-36; App. Tabs 38, 66; Kane Decl. paras. 58-62; Caris Decl. para. 7
Paydirt Properties LLC	Second Report, pp. 33, 36; App. Tabs 39, 66; Kane Decl. paras. 58-62; Caris Decl. paras. 7, 8
Paydirt, L.P.	Second Report, pp. 33, 36; App. Tab 39; Kane Decl. paras. 58-62
Phoenix Rising LLC	Second Report, pp. 6, 44-45; App. Tabs 50, 66; Kane Decl., paras. 48, 49, 52, 54
Powder Monkeys, LLC	<i>Passim</i>
Robin V Foundation	Second Report, p. 7
Rotortrends Inc.	Second Report, pp. 6, 70; Kane Decl., paras. 50, 51
ScamVictimHelp.com, LLC	App. Tab 36
Scud Runner LLC	Second Report, pp. 7, 71; Kane Decl. paras. 48, 49
Silvernix Holdings LLC	Second Report, pp. 7, 45, 47, 71-72; App. Tabs 36, 43, 53, 56, 66; Kane Decl., paras. 48, 49, 64, 65; Caris Decl. para. 13

Entity/Individual Name	Report / Evidence References*
	Kane Decl., paras. 48, 49, 64, 65; Caris Decl. para. 13
SmartNet Development LLC	App. Tab 36
Spindletop Investments LLC	Second Report, pp. 7, 71
Spyglass Enterprises LLC	Second Report, pp. 6, 37-40; App. Tabs 41, 66; Kane Decl. paras. 21, 26, 60, 61, 63, 64, 74; Caris Decl. paras. 7, 8
Spyglass Holdings LLC	Second Report, pp. 6, 37-40; App. Tabs 42, 66; Kane Decl. para. 63
SRLA Association LLC	Second Report, p. 7, Kane Decl., para. 48
SRLA LLC	Second Report, pp. 7, 71-72; App. Tabs 43, 66; Kane Decl., paras. 48, 49, 65
Summerset Ranch LLC	Second Report, p. 7; App. Tabs 17, 35, 43, 54, 66; Kane Decl., paras. 45 and 47
T. Vowell Sole Prop. Capital Holding	App. Tabs 35, 36, 43
Taggart Management LLC	Second Report, pp. 7, 46, 47; App. Tabs 56, 66; Kane Decl. paras. 64, 65
Tiburon Enterprises LLC	Second Report, pp. 7, 50-51, 54; App. Tabs 36,43,57,66; Kane Decl., paras. 62, 68; Caris Decl. para. 12
TJJ Properties LLC	App. Tabs 36, 43
TLV Enterprises Inc.	Second Report, p. 6
Treadstone Partners LP	Second Report, pp. 7, 46, 47 App. Tab 57
Triple Play Group LLC	Second Report, p. 38; App. Tabs 35, 36, 43
Triple Seven LP/LLC	<i>passim</i>
Triple Seven, Inc.	Second Report, p. 68; App. Tab 35
USB Media LLC dba Computista	Second Report, p. 6; App. Tabs 35, 36
Valentino Holdings LP	Second Report, p. 7; App. Tabs 17, 66
Valentino Properties LLC	Second Report, p. 38; App. Tabs 36, 43
Vanquish Enterprises LLC	Second Report, p. 6; App. Tabs 35, 36, 66; Kane Decl. para. 65
Virgin Properties LLC	Second Report, p. 38; App. Tabs 36, 43, 50, 66
Volair Flight Management LLC	App. Tabs 36, 43
Vowell, Jason, Assets of	<i>passim</i>
Vowell, Sheree, Assets of	Kane Decl., paras. 70-73
Vowell, Todd, Assets of	<i>passim</i>
WCDI Land Management LLC	Second Report, pp. 6, 45; App. Tab 66; Kane Decl. paras. 45, 65
Wealth Matters LLC	Second Report, p. 6
Woodsvew Holdings LLC	Second Report, pp. 7, 48-49; Appl Tabs 62-65; Kane Decl., para. 46

* The citations to the Receiver's Reports and other evidence on this chart are set forth for the convenience of the Court and the parties and are not a complete or exhaustive recitation of all evidence relating to the persons and entities identified herein, and included in the Receiver's First Report, the Receiver's Second Report, the supporting declarations and documents of which the Court may take judicial notice. References to the "Second Report" and "App. Tabs" refer to the Report of Receiver's Financial Reconstruction [January 31, 2012] filed February 3, 2012 and the supporting four-volume Appendix of Exhibits. References to the Kane Declaration and the Caris Declaration refer to the declarations filed by the Receiver in support of the Motion for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding Scope of Receivership Defendants under Preliminary Injunction Order and Report of Receiver's Financial Reconstruction.

Upton, Ervin

From: cmecf@nvd.uscourts.gov
Sent: Wednesday, May 30, 2012 1:23 PM
To: cmecfhelpdesk@nvd.uscourts.gov
Subject: Activity in Case 2:10-cv-02203-MMD -GWF Federal Trade Commission v. Johnson et al Motion for Miscellaneous Relief

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United States District Court

District of Nevada

Notice of Electronic Filing

The following transaction was entered by Howard, Randolph on 5/30/2012 at 1:22 PM PDT and filed on 5/30/2012

Case Name: Federal Trade Commission v. Johnson et al
Case Number: 2:10-cv-02203-MMD -GWF
Filer: Robb Evans
Document Number: 580

Docket Text:

MOTION for Order Clarifying Preliminary Injunction Order and for Further Instructions Regarding Scope of Receivership Defendants Under Preliminary Injunction Order and Report of Receivers Financial Reconstruction and Granting Relief From Local Rule 66-5 Pertaining to Notice to Creditors by Receiver Robb Evans. Responses due by 6/16/2012. (Attachments: # (1) Exhibit A)(Howard, Randolph)

2:10-cv-02203-MMD -GWF Notice has been electronically mailed to:

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6f6526c020f02f769d5b2b3cb18ca7846bb2e25b5f52b36fba258d468807e]]

Document description:Exhibit A

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