

# EXHIBIT 3

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18 **FEDERAL TRADE COMMISSION,**  
 19  
 20 **Plaintiff,**  
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 22 **JEREMY JOHNSON, et al.**  
 23  
 24 **Defendants.**

Case No. 2:10-cv-02203-MMD-GWF  
 PLAINTIFF FTC'S RESPONSE  
 SUPPORTING THE RECEIVER'S  
 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 (D.E. 580)

1 Plaintiff Federal Trade Commission (“FTC”) files this memorandum to highlight  
2 additional evidence of defendant Jeremy Johnson’s efforts to hide and dissipate millions of  
3 dollars through transactions with inter-tangled shell companies and Johnson associates, including  
4 those companies and individuals listed in Attachment A to the Receiver’s Motion for Order  
5 Clarifying Preliminary Injunction, Etc. (“Receiver’s Motion”) [D.E. 580]. To aid the Receiver  
6 in recovering these funds and other Johnson assets, the FTC fully supports the Receiver’s  
7 Motion. After briefly summarizing the procedural history of this case, this memorandum  
8 highlights evidence not cited in the Receiver’s motion that further evidences the need for the  
9 requested relief. This evidence includes emails, documents, and declarations of third parties that  
10 show that: (1) Johnson hid his ownership and control over three companies that processed  
11 online poker transactions – Triple Seven, LP, Powder Monkeys, LLC, and Mastery Merchant,  
12 LLC; (2) Johnson is the *de facto* owner of Flying High Enterprises, LLC (a shell company  
13 created to place recurrent charges on consumers’ credit card accounts); (3) Johnson is the *de*  
14 *facto* owner of New Horizon’s Finance, Inc., and its assets which include a trailer park; (4)  
15 Johnson is the *de facto* owner of a Robinson 44 helicopter and \$2 million that was held in an  
16 escrow account; (5) Sheree Vowell has repatriated poker processing funds from an offshore  
17 bank; and (6) Global Media 7, Inc., is just another shell entity with titular owners created for the  
18 apparent purpose of hiding assets.

19 Given the wealth of evidence uncovered by the Receiver and the FTC demonstrating that  
20 Johnson has, via half-truths and omissions, attempted to conceal and shield millions of dollars of  
21 assets that should rightfully be marshaled by the Receiver to ultimately redress his victims, the  
22 Court should grant the Receiver’s Motion in full, including, but not limited to, clarifying and  
23 confirming that pursuant to this Court’s preliminary injunction order (“PI Order”) [DE 130] the  
24 various entities listed in Attachment A to the Receiver’s Motion are Receivership entities, and  
25 that the assets of the various entities and individuals listed in Attachment A to the Receiver’s  
26 Motion are property of the Receivership.

1 **I. Procedural History**

- 2 (1) In December 2010, the FTC filed its Complaint [DE 1] alleging that defendants engaged  
3 in a massive deceptive and unfair Internet-based marketing scheme between 2006 and  
4 2010, causing more than \$275 million in unreimbursed consumer harm.
- 5 (2) In January 2011, the FTC filed an emergency motion for a temporary restraining order  
6 and order to show cause why a preliminary injunction should not issue [DE 17, 43-1],  
7 accompanied by 18 volumes of exhibits [DE 20 through DE 41-12].
- 8 (3) On January 13, 2011, the Court issued a temporary restraining order [DE 44] that, *inter*  
9 *alia*, froze the assets of the corporate defendants and Johnson, and appointed Robb Evans  
10 & Associates, LLC (“Robb Evans”) as temporary receiver over the corporate defendants  
11 and over Johnson’s assets.
- 12 (4) On February 10, 2011, the Court held a full-day hearing on the FTC’s request for a  
13 preliminary injunction. After considering voluminous briefs and exhibits, and providing  
14 extended time to defendants for briefing and arguments of counsel, the Court issued a PI  
15 Order [DE 130] in which it found, *inter alia*, that there was good cause to believe that  
16 defendants had engaged and were likely to engage in law violations, that the FTC was  
17 likely to prevail on the merits of the action, that there was good cause to believe that  
18 irreparable harm would result from defendants’ ongoing law violations, and that  
19 irreparable harm would result to the Court’s ability to grant final monetary relief absent a  
20 freeze on the assets of Johnson and the corporate defendants.
- 21 (5) The PI Order continued the freeze on the assets of Johnson and the corporate defendants  
22 and appointed Robb Evans as permanent receiver for their assets [DE 130, Section XIV].  
23 The PI Order required all defendants to submit to the FTC and the Receiver financial  
24 statements disclosing all assets under their control or held for their benefit, as well as tax  
25 returns for the three most recent years [DE 130, Section VIII].

1 (6) On February 3, 2012, the Receiver filed its Report of Financial Reconstruction  
2 (Receiver's Second Report") [D.E. 464], detailing evidence supporting the Receiver's  
3 conclusion that "Jeremy Johnson shifted, without independent consideration, revenue  
4 sources that channeled tens of millions of dollars from his entities to entities and  
5 individuals that he controlled and with whom he colluded" and detailing how "revenue  
6 totaling approximately \$51.4 million was re-routed to many other companies and  
7 individuals" [DE 464, p. 3] <sup>1</sup> in addition to the more than \$50 million Johnson realized  
8 from the IWorks scheme as previously reported by the Receiver in his Report filed on  
9 February 8, 2011 ("Receiver's First Report") [DE 127].

10 (7) On May 30, 2012, the Receiver filed his Motion for Order Clarifying Preliminary  
11 Injunction Order and for Further Instructions Regarding Scope of Receivership  
12 Defendants Under Preliminary Injunction Order, Etc. [DE 580]

13 **II. Further Evidence and Information Supporting the Receiver's Findings.**

14 As noted in the conclusions of Receiver's Second Report, since 2009, Johnson has been  
15 engaged in a long campaign of asset concealment, including transferring millions of dollars of  
16 assets to newly-formed entities nominally owned by associates (such as Jason Vowell and Todd  
17 Vowell) and family members. In support of the Receiver's Motion, the FTC highlights six of  
18 Johnson and his associates apparent attempts at asset concealment and dissipation.

19 **A. Johnson is the *De Facto* Owner of Poker Processing Entities.**

20 Johnson is the *de facto* owner of a number of entities that processed online poker  
21 transactions. These companies include Triple Seven, LP, Powder Monkeys, LLC, and Mastery  
22 Merchant, LLC ("Poker Processing Entities"). On paper, the Poker Processing Entities were  
23 managed and owned by Jason and Todd Vowell. Emails from the Vowells, however, tell a  
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25  
26 <sup>1</sup> This included: (1) nearly \$25 million routed to stock trading accounts at TD Ameritrade; (2)  
27 approximately \$2.7 million routed to an offshore bank account in Cypress; and (3) approximately \$6.7 million  
transferred from I Works to several entities owned by Todd Vowell and Jason Vowell.

1 different story. For instance, in a March 29, 2010 email to defendant Scott Leavitt, Jason  
2 Vowell, admits that he is afraid that if he displeases Johnson, Johnson will shut him off from  
3 Triple Seven.<sup>2</sup> Furthermore, in a February 17, 2012 email to Blaze Processing, a company that  
4 connects merchants in need of credit card processing with payment processors and banks, Jason  
5 Vowell explains, that he cannot provide any banking information concerning Triple Seven  
6 without Johnson's approval.<sup>3</sup> Likewise, in an October 8, 2010 email, Todd Vowell requests  
7 Johnson's permission to speak directly with Sunfirst Bank staff in charge of processing the  
8 online poker-related charges in connection with a reserve account.<sup>4</sup>

9 **B. Johnson is the *De Facto* Owner of Flying High Enterprises.**

10 In June 2010, four months after Johnson learned of the FTC's investigation, he arranged to  
11 "sell" the IWorks billing portfolios to Flying High Enterprises and Cerberus Management, two  
12 entities created by the Vowells. These billing portfolios consisted of the account information of  
13 consumers who defendants had tricked into signing up for negative option continuity plans  
14 which included recurring monthly billing to the consumers' credit cards or bank accounts. By  
15 selling the portfolios, Johnson could claim that he was no longer collecting funds from defrauded  
16 consumers.

17 In reality, though, Johnson sold the billing portfolios to himself. While the purchasers of the  
18 billing portfolios were ostensibly companies controlled by the Vowells, John Hafen, and Lloyd  
19 Melling, at least one of the companies (and probably both) were controlled by Johnson.  
20 Johnson's control over Flying High is evidenced by the declaration of Ms. Danielle Darlene  
21 Andersen, an online poker player. As noted in the Receiver's Second Report, in December  
22 2010, Flying High Enterprises transferred \$65,000 to a bank in Portugal at the direction of

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23  
24 <sup>2</sup> See Declaration of Reeve Tyndall in Support of the FTC's Response Supporting the Receiver's Motion  
("Tyndall Declaration") attached as Exhibit 1 ¶ 8(a).

25 <sup>3</sup> *Id.* at ¶ 8(b).

26 <sup>4</sup> *Id.* at ¶ 8(c).

1 Johnson.<sup>5</sup> In 2012, the FTC identified Ms. Andersen as the recipient of the \$65,000. In a sworn  
2 declaration filed with this memorandum, Ms. Andersen explains that Johnson transferred the  
3 \$65,000 as part of a “staking” arrangement, whereby Johnson provided Ms. Andersen with  
4 additional financial backing in return for a percentage of any winnings.<sup>6</sup> According to Ms.  
5 Andersen, in December 2010, Johnson further “staked” her with an additional \$110,000 in cash  
6 under the same staking arrangements.<sup>7</sup> Additionally, it was Ms. Andersen’s understanding that  
7 all \$175,000 was Johnson’s money.<sup>8</sup>

8 Ms. Andersen’s declaration is corroborated by two emails: (1) a November 12, 2010 email  
9 Johnson forwarded to Todd Vowell in which Ms. Andersen directs Johnson to transfer the  
10 money to a Portugese bank account in the name of Joao Vide Barbosa; and (2) a November 24,  
11 2010 email from Johnson directing Todd Vowell to send the \$65,000 to the Portugese bank  
12 account in the name of Joao Vide Barbosa, that Todd Vowell then forwarded to Jason Vowell.<sup>9</sup>

13 **C. Johnson is the *De Facto* Owner of New Horizons Finance, Inc.**

14 Johnson is the *de facto* owner of New Horizons Finance, Inc., (“New Horizons”) a Utah  
15 company that is supposedly owned by Johnson’s brother, defendant Andy Johnson, and managed  
16 by defendant Kevin Pilon. The Receiver’s First Report noted that Johnson appeared to be the  
17 true owner of New Horizons.<sup>10</sup> New Horizon’s principal asset appears to be the Beaver Dam  
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19 <sup>5</sup> See Tab 17 of the Appendix of Exhibits (Tabs) to Report of Receiver’s Financial Reconstruction [DE 465  
20 p. 75].

21 <sup>6</sup> See Declaration of Danielle Darlene Andersen attached as Exhibit 3.

22 <sup>7</sup> *Id.* ¶ 3.

23 <sup>8</sup> *Id.* ¶ 4.

24 <sup>9</sup> See Tyndall Declaration ¶ 11.

25 <sup>10</sup> Among other things, the Receiver’s First Report noted that New Horizons had transferred more than  
26 \$2.2 million to IWorks, Johnson, and Johnson’s company, Zibby, LLC, in the form of outside service expenses, and  
27 that loans to New Horizons from IWorks and Johnson were classified by New Horizons as capital contributions. [DE  
127 p. 13.]

1 Trailer Park in Mohave County, Arizona.<sup>11</sup> While Johnson did not identify New Horizons or any  
2 of its assets as being owned by him or owned for his benefit on the signed Financial Statement  
3 he file pursuant to the Temporary Restraining Order, documents obtained by the FTC show that  
4 Johnson clearly considers himself to be the owner of New Horizons and all of its assets.<sup>12</sup>  
5 Between November 2007 and July 2010, Johnson claimed ownership of a Beaver Dam Trailer  
6 Park valued at \$300,000 in numerous signed statements of net worth.<sup>13</sup> Furthermore, in a July  
7 16, 2009 email, Johnson told a Town & Country bank official that “I also have a trailer park in  
8 Beaver Dam.”<sup>14</sup> Furthermore, as discussed in more detail below, Johnson had revenues  
9 generated through the leasing of various aircraft sent to a New Horizon’s bank account. The  
10 FTC has found nothing to suggest that Johnson sold his interest in New Horizons.

11 **D. Johnson Was the True Owner of a Robinson 44 Helicopter.**

12 Although not listed on his court-ordered financial statement,<sup>15</sup> Johnson owned or controlled a  
13 Robinson 44 helicopter with the tail number 34BK (“34BK”).<sup>16</sup> The FTC has attached to this  
14 memorandum the sworn declaration of Ryan Daniel, a helicopter pilot that Johnson met in  
15 Haiti.<sup>17</sup> According to Mr. Daniel, in July 2010, Johnson asked Mr. Daniels if he would fly to  
16 Chicago and perform a pre-purchase inspection of 34BK.<sup>18</sup> Johnson told Mr. Daniels that he had

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18 <sup>11</sup> See Tyndall Declaration ¶ 6(a).

19 <sup>12</sup> *Id.* at ¶ 12.

20 <sup>13</sup> *Id.* at ¶¶ 4, 5.

21 <sup>14</sup> *Id.* at ¶ 6(b). Furthermore, an August 3, 2010 email from Kevin Pilon to Johnson confirms that the  
22 Beaver Dam trailer park referenced in the statements of net worth and Johnson’s July 16, 2009 email is the same  
piece of property supposedly owned by New Horizons. *Id.* at ¶ 7(a).

23 <sup>15</sup> *Id.* at ¶ 12.

24 <sup>16</sup> It appears that this helicopter was sold in late 2011.

25 <sup>17</sup> Declaration of Ryan Daniels (“Daniels Declaration”) at ¶ 2 attached as Exhibit 4.

26 <sup>18</sup> *Id.* at ¶ 4.



1 \$2 million in an escrow account, and if Mr. Daniels confirmed that 34BK was in good shape,  
2 Johnson would purchase the aircraft by having \$260,000 (the sale price) released from the  
3 escrow account.<sup>19</sup> Johnson told Mr. Daniels that he planned on buying 34BK, putting it under  
4 the name of Scud Runner, LLC, and leasing it out to third parties.<sup>20</sup> Johnson also told Mr.  
5 Daniels that he planned to use funds in the escrow account to purchase a bigger Robinson R66  
6 helicopter.<sup>21</sup> According to Mr. Daniels, after he inspected 34BK and contacted Johnson, Johnson  
7 arranged for the money to be released to purchase 34BK.<sup>22</sup> After the purchase of 34BK, Johnson  
8 continued to refer to 34BK as his helicopter.<sup>23</sup> And, documents supplied by one of the  
9 individuals who leased 34BK shows that the lease payments were sent to a bank account in the  
10 name of Johnson's company New Horizons.<sup>24</sup>

11 **E. Sheree Vowell Has Repatriated Hundreds of Thousands of Dollars Of Poker Processing**  
12 **Funds Previously Sent Offshore.**

13 It is clear that Johnson has directed that millions of dollars of assets be sent offshore. As  
14 noted in the Receiver's Second Report, more than \$2.7 million of Poker Processing Entity  
15 money has been transferred to an offshore bank account in the name of Triple Seven, Inc., at  
16 FBME Bank Limited, in Nicosia, Cyprus. *See* Receiver's Second Report [DE 464 p. 70].  
17 Furthermore, as noted in the Declaration of Brick Kane in Support of the Receiver's Motion,  
18 Johnson was personally notified by the Pacific Coast Bankers Bank, a correspondent bank that  
19  
20

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21 <sup>19</sup> *Id.*

22 <sup>20</sup> *Id.* at ¶ 5.

23 <sup>21</sup> *Id.*

24 <sup>22</sup> *Id.* at ¶ 7.

25 <sup>23</sup> *Id.* ¶¶ 7, 8.

26 <sup>24</sup> *See* Tyndall Declaration at ¶ 10.

1 handled overseas wire transfers for Sunfirst Bank, of these offshore wire transfers to the Triple  
2 Seven, Inc. account at FBME Bank.<sup>25</sup>

3 Now, documents obtained by the FTC show that Sheree Vowell (Todd Vowell's wife) has  
4 apparently repatriated thousands of dollars in poker processing funds from Cyprus. Bank  
5 records that Sheree Vowell provided to Blaze Processing show that on April 15, 2010, the Triple  
6 Seven, Inc. account at FBME Bank wired \$180,000 to Ms. Vowell's personal Wells Fargo  
7 account.<sup>26</sup>

8 **F. Global Media 7, LLC Is Just Another Shell Company Created By Jason Vowell**  
9 **Presumably to Hide Assets From the Receiver's Investigation.**

10 In his Motion, the Receiver suspects that Jason Vowell has continued to create shell  
11 companies, including Global Media 7, LLC, a limited liability company formed on January 31,  
12 2012, in order to hide assets. The Receiver's suspicions are confirmed by Darin Hunt, the titular  
13 head of Global Media 7 since February 7, 2012.<sup>27</sup> As noted in the sworn declaration of FTC  
14 Investigator Tyndall attached to this memorandum, Mr. Hunt told FTC staff that he was not the  
15 real owner or manager of Global Media 7 and that he did not know what it did.<sup>28</sup> Mr. Hunt  
16 further stated that he had only signed the Global Media 7 documents as a favor to Jason  
17 Vowell.<sup>29</sup>

18 This Court appointed a Receiver to untangle the web of various entities created and used by  
19 Johnson and his co-defendants. This web can only be untangled by bringing the companies and

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20 <sup>25</sup> See Exhibit 4 to the Declaration of Brick Kane in Support of the Receiver's Motion ("Kane  
21 Declaration"). [DE 581-1 p. 46]

22 <sup>26</sup> See Tyndall Declaration ¶ 9(a).

23 <sup>27</sup> See Kane Declaration [DE 581 ¶ 69].

24 <sup>28</sup> See Tyndall Declaration ¶ 3. Because Mr. Hunt had no knowledge of what the company he purportedly  
25 owns does, FTC staff are unable to confirm at this time the specific nature of the connection between Global Media  
26 7 and the assets of Johnson.

27 <sup>29</sup> *Id.*

1 the various assets the companies were created to hold and transfer under the control of the  
2 Receiver. Jason Vowell's continued creation of shell companies in the names of nominees,  
3 presumably to hold and transfer Johnson assets, further validates the Receiver's request for such  
4 relief.

5 **III. CONCLUSION**

6 The FTC joins the Receiver's arguments regarding the scope of the receivership in this  
7 case. The receivership rightly includes all of the nominally-owned entities listed in Attachment  
8 A to the Receiver's Motion, as well as the assets of those nominally-owned entities and the  
9 individuals listed in Attachment A to the Receiver's Motion. Johnson should not be permitted to  
10 shield his assets by transferring them through a maze of corporate shells and to the accounts of  
11 his cronies. To allow Johnson to hide his assets would completely frustrate the Court's ability to  
12 grant full and effective final relief that reimburses consumers for the more than \$275 million of  
13 harm inflicted by defendants.

14  
15 Respectfully submitted,

16  
17 Dated: July 9, 2012

/s/ J. Ronald Brooke, Jr.  
Collot Guerard  
J. Ronald Brooke  
Janice Kopec  
Dotan Weinman

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38 FTC Response to Receiver's Motion to Clarify [DE 580]  
*FTC v. Jeremy Johnson, et al.*

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