

# EXHIBIT L

V  
2009 JUN 22 A 10:15  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

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12  
13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEV**

15 FEDERAL TRADE COMMISSION,  
16 Plaintiff,

2:09-cv-01112-RCJ-LRL

17 v.

18 INFUSION MEDIA, INC.,  
19 a corporation, also  
20 d/b/a Google Money Tree,  
21 Google Pro,  
22 Internet Income Pro, and  
23 Google Treasure Chest;

24 WEST COAST INTERNET MEDIA, INC.,  
25 a corporation, also  
26 d/b/a Google Money Tree,  
27 Google Pro,  
28 Internet Income Pro, and  
Google Treasure Chest;

TWO WARNINGS, LLC,  
a limited liability company;

PLATINUM TELESERVICES, INC.,  
a corporation;

**CERTIFICATION OF DANIEL  
O. HANKS PURSUANT TO  
FED. R. CIV. P. 65(b)(2) IN  
SUPPORT OF PLAINTIFF'S EX  
PARTE MOTION FOR  
TEMPORARY RESTRAINING  
ORDER AND PLAINTIFF'S  
MOTION TO TEMPORARILY  
SEAL ENTIRE FILE**

**[FILED UNDER SEAL]**

1  
2 JONATHAN EBORN,  
3 individually and as an officer of  
4 Infusion Media, Inc.,  
5 Two Warnings, LLC,  
6 Two Part Investments, LLC, and  
7 West Coast Internet Media, Inc.;

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9 STEPHANIE BURNSIDE,  
10 individually and as an officer of  
11 Two Warnings, LLC,  
12 Two Part Investments, LLC, and  
13 West Coast Internet Media, Inc.;

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15 MICHAEL McLAIN MILLER,  
16 individually and as an officer of  
17 Infusion Media, Inc.,  
18 Two Warnings, LLC, and  
19 Two Part Investments, LLC; and

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21 TONY NORTON,  
22 individually and as an officer of  
23 Platinum Teleservices, Inc.

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I, Daniel O. Hanks, hereby declare as follows:

1. I am over eighteen years of age and am a citizen of the United States. I am one of the attorneys representing the Federal Trade Commission (the "FTC" or "Commission") in this action against Infusion Media, Inc., West Coast Internet Media, Inc., Two Warnings, LLC, Two Part Investments, LLC, Platinum Teleservices, Inc., Jonathan Eborn, Stephanie Burnside, Michael McLain Miller, and Tony Norton, (collectively "Defendants").

2. I am a member in good standing of the bars of the District of Columbia and Virginia. My work address is FTC, Division of Marketing Practices, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Unless indicated otherwise, I have personal knowledge of the facts stated herein and if called as a witness, would competently testify thereto.

3. I submit this certification pursuant to Rule 65(b)(2) of the Federal Rules of Civil Procedure in support of Plaintiff Federal Trade Commission's Ex Parte Motion for a Temporary Restraining Order with Asset Freeze, Appointment of a Receiver, and Other Equitable Relief,

1 and Order to Show Cause ("TRO Motion") and in support of the Commission's request that the  
2 Temporary Restraining Order ("TRO") be issued without notice to Defendants. I also submit  
3 this certification in support of the Commission's *Ex Parte* Motion for Order Temporarily  
4 Sealing Entire File, filed contemporaneously with the Commission's application for a TRO.

5 4. Pursuant to Fed. R. Civ. Pro. 65(b), this Court may issue a TRO without notice  
6 to Defendants if the Commission's counsel "certifies to the court in writing the efforts, if any,  
7 which have been made to give the notice and the reasons supporting the claim that notice should  
8 not be required." For the reasons discussed herein, the Commission has not provided  
9 Defendants with notice of the filing of this action or of the Commission's application for a TRO.  
10 For the reasons stated below, the interests of justice require that the Commission's applications  
11 be heard *ex parte*.

12 5. The evidence set forth in the FTC's Memorandum of Points and Authorities in  
13 Support of Plaintiff Federal Trade Commission's Ex Parte Motion for a Temporary Restraining  
14 Order with Asset Freeze, Appointment of a Receiver, and Other Equitable Relief, and  
15 supporting exhibits, filed concurrently herewith, demonstrates that Defendants induce  
16 consumers to purchase a work-at-home "kit" for a nominal cost of \$1.97 or \$3.88, but then  
17 initiate recurring unauthorized charges of \$72.21 to consumers' financial accounts. Defendants  
18 market their work-at-home kits online by making eye-catching claims about the income their  
19 kits will generate for consumers and by using prominently the "Google" name and logo to cloak  
20 their venture in a false aura of legitimacy. These representations are false, but together with the  
21 nominal cost for the Google Money Tree kit, they lull consumers into believing there is little  
22 risk in ordering. Hidden, however, on "terms and conditions" pages that can only be reached by  
23 inconspicuous hyperlinks are disclosures that the purchase of a kit will trigger recurring charges  
24 of \$72.21. Through this scheme, the defendants have extracted millions of dollars from  
25 consumers across the country.

26 6. The defendants have continued their scheme unabated despite more than a  
27 thousand consumer complaints including 250 in the last month alone, several administrative  
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1 citations from Utah's Division of Consumer Protection, and even in the face of a lawsuit filed  
2 earlier this year by the Texas Attorney General.

3 7. The FTC has alleged that Defendants' deceptive activities violate Section 5 of  
4 the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45; Section 907(a) of the  
5 Electronic Funds Transfer Act ("EFTA"), 15 U.S.C. § 1693e(a); and Section 205.10(b) of  
6 Regulation E, 12 C.F.R. § 205.12(b). By violating Section 907(a) of the EFTA and Regulation  
7 E, Defendants have violated the FTC Act, 15 U.S.C. § 1693o(c).

8 8. The evidence shows that Defendants' failure to disclose material terms of their  
9 offer and their misrepresentations about affiliation with Google Inc. constitute deceptive acts or  
10 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

11 9. The evidence shows that Defendants violate Section 907(a) of the EFTA, 15  
12 U.S.C. § 1693e(a) and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.12(b) by debiting  
13 consumers' bank accounts on a recurring basis without obtaining a written authorization signed  
14 or similarly authenticated from consumers for preauthorized electronic fund transfers from the  
15 accounts. By violating Section 907(a) of the EFTA and Regulation E, Defendants have violated  
16 the FTC Act, 15 U.S.C. § 1693o(c).

17 10. Accordingly, the FTC seeks an *ex parte* TRO: (a) prohibiting Defendants from  
18 involvement in marketing, promoting or selling business opportunity ventures; (b) freezing  
19 Defendants' assets; (c) appointing a temporary receiver; (d) providing the FTC with immediate  
20 access to Defendants' business premises and records; (e) permitting the FTC to take expedited  
21 discovery; and (f) other equitable relief

22 11. There is ample evidence that Defendants have the motivation and opportunity to  
23 conceal and dissipate assets and destroy important documents, as demonstrated by: (a) the  
24 pervasive fraudulent enterprise in which they are engaged; (b) the presence of easily concealed  
25 and portable assets (*i.e.*, cash); and (c) Defendants' repeated and flagrant violation of the  
26 consumer protection laws.

27 12. Consequently, absent the requested *ex parte* relief and seal order, it is reasonably  
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1 likely that Defendants will destroy documents and dissipate or hide assets. If Defendants are  
2 permitted the opportunity to hide their assets and destroy business records, it will render  
3 ineffective any restitution order this Court may enter at the ultimate disposition of this matter,  
4 and irreparably harm consumers victimized by Defendants' deceptive scheme.

5 13. As illustrated by the following examples (provided on information and belief), it  
6 has been the Commission's experience that Defendants, who receive notice of the filing of an  
7 action by the FTC or of the FTC's intent to file an action alleging consumer fraud, often attempt  
8 to undermine the FTC's efforts to preserve the status quo by immediately dissipating or  
9 concealing assets and/or destroying documents. Often Defendants or their affiliates, who have  
10 been served with a temporary restraining order, attempt to remove assets from their financial  
11 institutions or to conceal offshore assets:

12 a. In FTC v. World Class Network, Inc., CV-97-162 AHS (C.D. Cal. 1997),  
13 after the court had issued an *ex parte* restraining order, two of the Defendants withdrew from  
14 the bank, spent, and hid \$202,000 in assets after being served with the restraining order and  
15 asset freeze. The spouse of another defendant withdrew over \$100,000 and left the state to open  
16 and deposit funds into an out-of-state account.

17 b. In FTC v. Thomas E. O'Day, No. 94-1108-CIV-ORL-22 (M.D. Fla.  
18 1994), the district court denied the FTC's request to issue an *ex parte* TRO with asset freeze,  
19 and scheduled a noticed hearing on the relief sought. Several days later, the FBI executed a  
20 search warrant on the Defendants' business premises as the FTC served notice of its action and  
21 the upcoming hearing. Within hours, an individual defendant withdrew approximately  
22 \$200,000 from one of his bank accounts.

23 c. In FTC v. Academic Guidance Services, No. 92-3001 (AET) (D.N.J.  
24 1992), the Defendants discovered that the FTC intended to file a case against them (and seek an  
25 *ex parte* TRO) the following week. An informant told the FTC that the Defendants then leased  
26 a document shredder and spent the weekend destroying documents. The FTC verified that a  
27 shredder had been leased, and one of the defendants' employees confirmed that documents had  
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1 been shredded.

2 d. In FTC v. Applied Telemedia Engineering and Management, Inc., No.  
3 91-635 (S.D. Fla. 1991), the Defendants were advised, pursuant to an agreement with the FTC,  
4 that the FTC had filed its complaint and intended to seek a restraining order with an asset freeze  
5 from the court. When the FTC's agents went to the Defendants' offices to serve process, they  
6 observed the Defendants removing boxes of documents from the premises. The FTC moved  
7 for, and received, an *ex parte* TRO the following day.

8 e. In FTC v. Intellicom, 97-4572 TJH (Mcx) (C.D. Cal. 1997), a  
9 telemarketing investment fraud case, the FTC obtained an *ex parte* TRO and served banks at  
10 which the Defendants were known to have accounts. One defendant, whose bank was served  
11 earlier in the day, called the bank and asked the branch manager to wire out approximately  
12 \$100,000 held in an account that was specifically designated in the TRO as frozen. The branch  
13 manager encountered a red flag in the system, discovered that the account had been frozen, and  
14 refused to release the funds.

15 f. In FTC v. Lopinto, No. CV S-93-561 (LDG) (D. Nev. 1993), a case  
16 involving the telemarketing of prize promotions, the district court issued an *ex parte* TRO with  
17 an asset freeze. The order was served on a bank where one of the defendant businesses  
18 maintained an account. However, before the bank could implement the freeze, an agent of the  
19 defendant business – who knew of the freeze – withdrew \$12,300 from defendant's account.

20 g. In FTC v. American National Cellular, Inc., No. CV 85-7375 WJR (C.D.  
21 Cal. 1985), the court issued an *ex parte* TRO with an asset freeze. A defendant learned of the  
22 court's ruling, and immediately withdrew \$1.2 million from his bank accounts before the banks  
23 were served with a copy of the freeze order. The defendant fled California and dissipated the  
24 money while living overseas.

25 14. For the above reasons, as contemplated by Federal Rule of Civil Procedure  
26 65(b), there is good cause to believe that immediate and irreparable damage will result to  
27 consumers from the dissipation of assets, and from the concealment, transfer or destruction of  
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1 Defendants' records, if Defendants receive advance notice of the FTC's application for a  
2 temporary restraining order. Thus, it is in the interests of justice that this Court grant such  
3 application without notice.

4 15. For the same reasons, there is good cause to believe that immediate and  
5 irreparable harm will result to consumers if any of the Defendants receive premature notice of  
6 the filing of this action. Thus, the interests of justice would be served if the Commission's  
7 Motion for Temporary Seal of the Entire File were granted.

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9 I declare under penalty of perjury that the foregoing is true and correct.

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11 Executed on June 19, 2009, in Washington, D.C.

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