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7 ATTORNEYS FOR PLAINTIFF

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10 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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12 FEDERAL TRADE COMMISSION,

13 Plaintiff,

CV-S-97-

14 v.

15 WOOFTER INVESTMENT CORPORATION,
and PATSY M. BARBOUR a.k.a. PATSY
16 BARBOUR-WOOFTER,

17 Defendants.

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19 **TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE WHY
PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

20 Plaintiff, the Federal Trade Commission ("Commission"), having filed a Complaint for a
21 permanent injunction and other relief, including restitution to consumers, pursuant to Section
22 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and
23 having moved for an *ex parte* temporary restraining order and for an order to show cause why a
24 preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil
25 Procedure, and the Court having considered the pleadings, declarations, exhibits, and
26 memorandum filed in support thereof, it is the finding of this Court that:

1 computerized records, books, written or printed records, handwritten notes, telephone logs,
2 telephone scripts, "verification" tapes or other audio or video tape recordings, receipt books,
3 invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank
4 statements, appointment books, copies of federal, state or local business or personal income or
5 property tax returns, and other documents or records of any kind that relate to the business
6 practices or business or personal finances of defendants.

7 **IV. DUTIES OF ASSET HOLDERS**

8 IT IS FURTHER ORDERED that, except as stipulated by the parties or as directed by
9 further order of the Court, any financial or brokerage institution, business entity, or person that
10 holds, controls, or maintains custody of any account or asset, including any membership or
11 mailing lists, real or personal of property defendants, or has held, controlled, or maintained
12 custody of any account or asset of defendants at any time since December 31, 1995, shall

13 A. Prohibit all persons and entities except, with respect to Woofter's assets, the
14 receiver appointed by this Order and his designated representatives or agents, from withdrawing,
15 removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting,
16 selling, or otherwise disposing of any of these assets.

17 B. Deny all persons and entities, except, with respect to Woofter's assets, the receiver
18 appointed by this Order and his designated representatives and agents, access to any safe deposit
19 box that is titled in the name of either defendant, either individually or jointly, or otherwise subject
20 to access by either defendant.

21 C. Provide counsel for plaintiff and, with respect to Woofter's assets, the receiver,
22 within five (5) business days of receiving a copy of this Order, a certified statement setting forth:

23 1. the identification number of each account or asset titled in the name,
24 individually or jointly, of defendants, or held on behalf of, or for the benefit of, defendants,
25 including all trust accounts managed on behalf of defendants or subject to defendants' control;
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1 2. the balance of each identified account, or a description of the nature and
2 value of the asset as of the close of business on the day on which this Order is served, and, if the
3 account or other asset has been closed or removed since January 1, 1997, the date closed or
4 removed, the total funds removed in order to close the account, and the name of the person or
5 entity to whom the account or other asset was remitted; and

6 3. the identification and location of any safe deposit box that is either titled in
7 the name, individually or jointly, of defendants, or is otherwise subject to access by defendants.

8 D. Upon request and within five (5) business days, provide to counsel for plaintiff
9 and, with respect to Woofter's assets, to the receiver, copies of all records or other
10 documentation pertaining to the accounts or assets described in Paragraph C above, including but
11 not limited to originals or copies of account applications, account statements, signature cards,
12 checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit
13 instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

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1 possession of any records, assets, property, or property right of defendants, and any other person,
2 partnership, corporation, or legal entity that may be subject to any provision of this Order.

3 **VI. DEFENDANTS' FINANCIAL STATEMENTS**

4 IT IS FURTHER ORDERED that defendants shall, within four business days from service
5 of this Order, prepare and deliver to the counsel for the Commission and, with respect to
6 Woofter's assets, the receiver, completed financial statements on the forms attached to this Order.
7 The completed financial statements shall be accurate as of the date of service of this Order upon
8 the defendants. Defendants shall attach to these completed financial statements copies of all state
9 and federal income and property tax returns for each individual and entity since January 1, 1995
10 and copies of all policies of insurance in effect since January 1, 1996 with attachments and
11 schedules thereto, insuring against loss of, or damage to, real or personal property owned or held
12 by or for defendants.

13 **VII. ACCESS TO PREMISES**

14 IT IS FURTHER ORDERED that defendants shall allow plaintiff and the receiver, and
15 their representatives, agents, and assistants, immediate access to Woofter's business premises and
16 any other locations where Woofter's property or business records are located. The locations of
17 defendant Woofter's business premises specifically include, but are not limited to, the Woofter
18 offices and facilities at 1500 Tropicana in Las Vegas, NV. The purpose of plaintiff's access shall
19 be to inspect and inventory all defendants' property, assets, and documents and to inspect and
20 copy any documents relevant to this action. For purposes of this provision, the term "document"
21 shall include all those items described in Paragraph III.B above. The Commission shall have the
22 right to remove documents from defendants' premises in order that they may be inspected,
23 inventoried, and copied. The documents so removed shall be returned to Woofter's premises, or
24 any other location directed by the receiver, within seven business days unless the receiver agrees
25 to a longer period. The FTC may also have immediate access to documents for purposes of
26 inspection, inventorying, and copying, in the event they have been removed from defendants'

1 premises by, and are in the possession of, another law enforcement agency of investigative
2 agency.

3 **VIII. APPOINTMENT OF RECEIVER AND RECEIVER DUTIES**
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1 provision of services, for any telemarketer or seller of tickets, chances or interests in any foreign
2 or U.S. lottery.

3 E. Cease all credit card laundering activity, as "credit card laundering" is defined in
4 Section 310.3(c) of the Telemarketing Sales Rule, 16 C.F.R. 310.3(c).

5 F. Continue and conduct any lawful business of Woofter not incident to telemarketing
6 or selling of tickets, chances or interests in any foreign or U.S. lottery, in such manner, to such
7 extent, and for such duration as the receiver may in good faith deem to be necessary or
8 appropriate to profitably and lawfully operate that business, if at all; **provided** that the
9 continuation and conduct of the business shall be conditioned upon Woofter first demonstrating to
10 the satisfaction of the Court, at the show cause hearing scheduled in Section XX below, that the
11 business can be lawfully operated at a profit using the funds and other assets of the receivership
12 estate. Woofter shall immediately, and thereafter from time to time upon request of the receiver,
13 advise the receiver concerning each location at which Woofter conducts business and all matters
14 relevant to the continuation and conduct of that business.

15 G. Employ any managers, agents, employees, servants, accountants, and technical
16 specialists as may in the receiver's judgment be advisable or necessary in the management,
17 conduct, control, or custody of the affairs of Woofter and the assets thereof, and otherwise
18 generally to assist in the receivership.

19 H. Make any payments and disbursements that may be necessary and advisable for the
20 preservation of the properties of Woofter and as may be necessary and advisable in discharging
21 the receivership duties.

22 I. Give information, in a form to be provided or approved by counsel for the plaintiff,
23 regarding the status of Woofter and this action to current, former, or prospective customers of
24 Woofter that the receiver in its judgment deems advisable or necessary and practicable, including
25 but not limited to notice through answering machines and faxes.

1 J. Receive and collect any and all sums of money due or owing Woofter in any
2 manner whatsoever, whether the same are now due or shall hereafter become due and payable,
3 except to the extent that debts are owed by members of the public who purchased tickets, chances
4 or interests in any foreign or U.S. lottery, and to do such things and enter into such agreements in
5 connection with the administration, care, preservation, and maintenance of the properties of
6 Woofter as the receiver may deem advisable.

7 K. Institute, prosecute, and defend, compromise, adjust, intervene in, or become party
8 to any actions or proceedings in state, federal, or foreign courts as may in the receiver's opinion
9 be necessary or proper for the protection, maintenance, and preservation of the assets of Woofter
10 or the carrying out of the terms of this Order, and likewise to defend, compromise, or adjust or
11 otherwise dispose of any or all actions or proceedings instituted against the receiver or against
12 Woofter and also to appear in and conduct the defense of any suit or adjust or compromise any
13 actions or proceedings now pending in any court by or against Woofter where the prosecution,
14 defense, or other disposition of those actions or proceedings will, in the judgment of the receiver,
15 be advisable or proper for the protection of the properties of Woofter.

16 L. Make periodic reports, observations, and recommendations to this Court, and seek
17 guidance and instructions from this Court, if the receiver deems it necessary, upon one day's
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1 estate, provided that the receiver shall provide a monthly accounting to the Court, that the Court
2 shall retain the right to accept or deny any particular charges, and that the receiver shall apply to
3 the Court for approval of these charges at regular intervals of three months.

4 **IX. TURN OVER TO RECEIVER**

5 IT IS FURTHER ORDERED that, immediately upon service of this Order upon them,
6 defendants, and any other person or entity served with a copy of this Order, shall immediately
7 deliver over to the receiver:

8 A. Possession and custody of all funds, assets, property owned beneficially or
9 otherwise, and all other assets, wherever situated, of Woofter.

10 B. Possession and custody of all books and records of accounts, all financial and
11 accounting records, balance sheets, income statements, bank records (including monthly
12 statements, canceled checks, records of wire transfers, and check registers), client lists,
13 membership and mailing lists, title documents, and other papers of Woofter.

14 C. Possession and custody of all funds and other assets belonging to members of the
15 public now held by Woofter.

16 D. All passwords or codes required to access any hardware, software, or electronic
17 files on any media.

18 E. All keys, passwords, identification numbers, entry codes, and combinations to
19 locks required to open or gain access to any of Woofter's property or effects, Woofter's
20 computer files (including all backup tapes), and all monies in any bank deposited by or to the
21 credit of Woofter, wherever situated.

22 F. Information identifying the accounts, employees, properties, or other assets or
23 obligations of Woofter.

24 G. A statement providing the total number of individuals and entities, and the name,
25 address, phone number, and account records of each of them, who is a customer or client of
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1 Woofter, whether directly or through any other entity, and the total dollar amount of money
2 received from each customer or client and paid out to each customer or client.

3 **X. NON-INTERFERENCE WITH RECEIVER**

4 IT IS FURTHER ORDERED that the defendants shall refrain from interfering with the
5 receiver taking custody, control, or possession and from interfering in any manner, directly or
6 indirectly, with the custody, possession, and control of the receiver; shall fully cooperate with and
7 assist the receiver appointed in this action; and shall take no action, directly or indirectly, to hinder
8 or obstruct the receiver in the conduct of its duties or to interfere in any manner, directly or
9 indirectly, with the custody, possession, management, or control by the receiver.

10 **XI. THIRD PARTY COOPERATION WITH RECEIVER**

1 establish or enforce any claim, right or interest against or on behalf of defendants, or its
2 subsidiaries or affiliates, and all others acting for or on behalf of those persons, including
3 attorneys, trustees, agents, sheriffs, constables, marshals, and other officers, and their deputies
4 and their respective attorneys, agents, servants, and employees, be and are hereby stayed from:

5 A. Commencing, prosecuting, continuing, or enforcing any suit or proceeding against
6 Woofter, or its subsidiaries or affiliates, or the receiver, except that any action may be filed to toll
7 any applicable statutes of limitations.

8 B. Commencing, prosecuting, continuing, or enforcing any suit or proceeding in the
9 name of the defendants or their subsidiaries or affiliates.

10 C. Accelerating the due date of any obligation or claimed obligation, enforcing any
11 lien upon, or taking or attempting to take possession or retaining possession of, property of
12 defendant Woofter, or its subsidiaries or affiliates, or any property claimed by Woofter, or
13 attempting to foreclose, forfeit, alter, or terminate any interests of Woofter in any property,
14 whether these acts are part of a judicial proceeding or otherwise.

15 D. Using self-help or executing or issuing, or causing the execution or issuance, of
16 any court attachment, subpoena, replevin, execution, or other process for the purpose of
17 impounding or taking possession of or interfering with or creating or enforcing a lien upon any
18 property, wheresoever located, owned or in the possession of the Woofter, or its subsidiaries or
19 affiliates, or the receiver appointed pursuant to this Order or any agents appointed by the receiver.

20 E. Doing any act or thing whatsoever to interfere with the receiver taking control,
21 possession, or management of the property subject to this receivership, or to in any way interfere
22 with the receiver, or to harass or interfere in any manner with the duties of the receiver; or to
23 interfere in any manner with the exclusive jurisdiction of this Court over the property and assets
24 of defendant Woofter or its subsidiaries or affiliates.

1 than three (3) business days before the hearing on the order to show cause why a preliminary
2 injunction should not issue. Defendants shall serve copies of all these materials on plaintiff by
3 delivery or facsimile to designated counsel for the Federal Trade Commission, at 915 Second
4 Avenue, Suite 2896, Seattle, Washington 98174, prior to 4:00 p.m. on the day that it is filed.

5 **XVIII. WITNESSES AT HEARINGS**

6 IT IS FURTHER ORDERED that, if any party to this action intends to present the
7 testimony of any witness at the hearing on a preliminary injunction in this matter, that party shall,
8 at least three (3) business days prior to the scheduled date and time of hearing, file with this Court
9 and serve on counsel for the other party, a statement of the name, address, and telephone number
10 of that witness, and either a summary of the witness' expected testimony, or the witness'
11 declaration or affidavit revealing the substance of the witness' expected testimony; and that, after
12 the service of the statement, the served party thereafter shall have two business days from the time
13 of service of the witness information to provide information to the Court and to the serving party
14 for any witness whose testimony the served party intends to present.

15 **XIX. EXPIRATION**

16 IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein
17 expires ten (10) days after entry unless, within that time, the Order for good cause shown is
18 extended for an additional period not to exceed ten(10) days, or unless it is extended with the
19 consent of the parties.

20 **XX. SHOW CAUSE**

21 IT IS FURTHER Ordered
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1 C.F.R. §§ 310.3(a), (b) and (c), continuing the relief provided herein and the freeze of their assets,
2 and imposing whatever additional relief may be appropriate.

3 **XXI. RETENTION OF JURISDICTION**

4 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all
5 purposes.

6 SO ORDERED, this _____ day of April, 1997, at _____.

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8 _____
9 United States District Judge

10 PRESENTED BY:

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13 _____
14 Eleanor Durham
15 Nadine S. Samter
16 Attorney for Plaintiff
17 Federal Trade Commission
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