

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No. 02-21754-CIV-GRAHAM

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ASSOCIATED RECORD DISTRIBUTORS, INC.,
a Florida corporation; ALFREDO SUSI,
individually and as an officer or
director of the above corporation;
RUSSELL MACARTHUR, individually and
~~officer or director of the~~

FILED by Gw D.C.
JUN 12 2002
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

"Franchise Rule" or the "Rule"), 16 C.F.R. Part 436, and having moved *ex parte* for a Temporary Restraining Order ("TRO") pursuant to Rule 65 of the Federal Rules of Civil Procedure and S.D. Fla. L.R. 7.1.E, and the Court having considered the Complaint, memorandum of law, declarations, and other exhibits filed in support of Plaintiff's motion, makes the following findings of fact and conclusions of law:

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

[REDACTED]

for Temporary Restraining Order and Other Equitable Relief, and in

the declarations and other exhibits shows that there

[REDACTED]

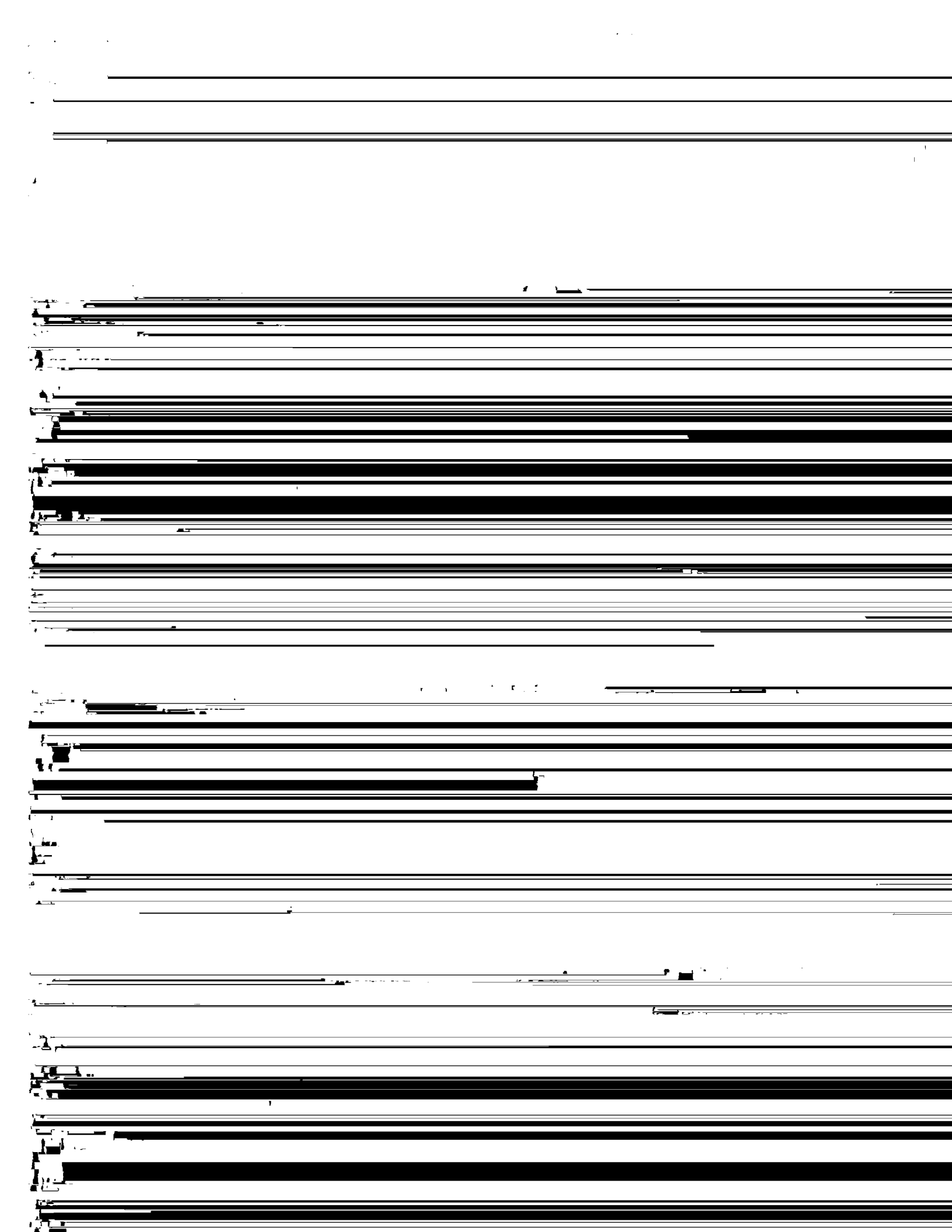
a temporary Receiver and asset freeze are necessary in order to
preserve the possibility of complete and meaningful relief at the

Franchise Rule, which consists of the payment of any consideration for:

- a. The right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
- b. More than nominal assistance to any person or entity

... .. dependent to the establishment

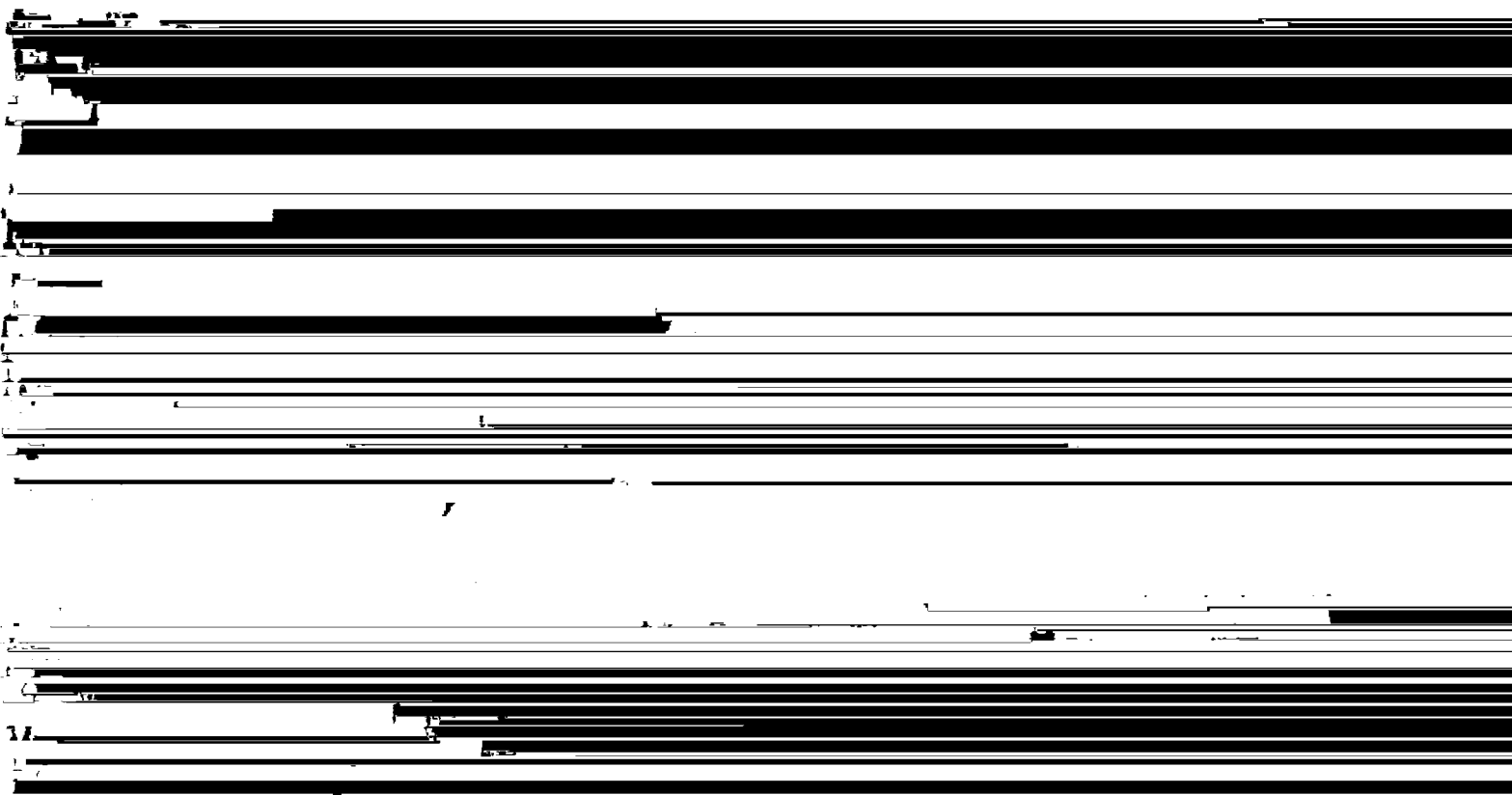
6. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from



violate any provisions of the Franchise Rule, 16 C.F.R. Part 436, by, including but not limited to:

- A. Failing to provide a prospective purchaser with a complete and accurate disclosure document as required by the Franchise Rule, 16 C.F.R. § 436.1(a);
- B. Failing to provide a prospective purchaser with an earnings claim document as required by the Franchise Rule, 16 C.F.R. § 436.1(b)-(e);
- C. Failing to disclose, in immediate conjunction with any generally disseminated ("advertised") earnings claim, information required by the Franchise Rule including the number and percentage of prior purchasers known by Defendants to have achieved the same or better results, 16 C.F.R. § 436.1(e)(3)-(4);

with _____ as a basis for any earnings claim



purchasers, the Commission, or its staff upon reasonable demand; or

- G. Making any claim or representation to prospective purchasers that is contradictory to the information required to be disclosed by Section 436.1 of the Franchise Rule.

III. ASSET FREEZE

IT IS FURTHER ORDERED that Defendants are hereby temporarily

restrained and enjoined from:

Defendant, including, but not limited to, any assets held

entered; and (2) for assets obtained after the date this Order was entered, only those assets of the Corporate Defendant and Individual Defendants that are derived from or otherwise related to the sale of business ventures, including franchises.

IV. DUTIES OF ASSET HOLDERS

It is further ORDERED that pending determination of

[REDACTED]

.....
B Deny any person or entity access to any safe deposit box

has been closed or removed. the date closed or

V. FOREIGN ASSET REPATRIATION

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

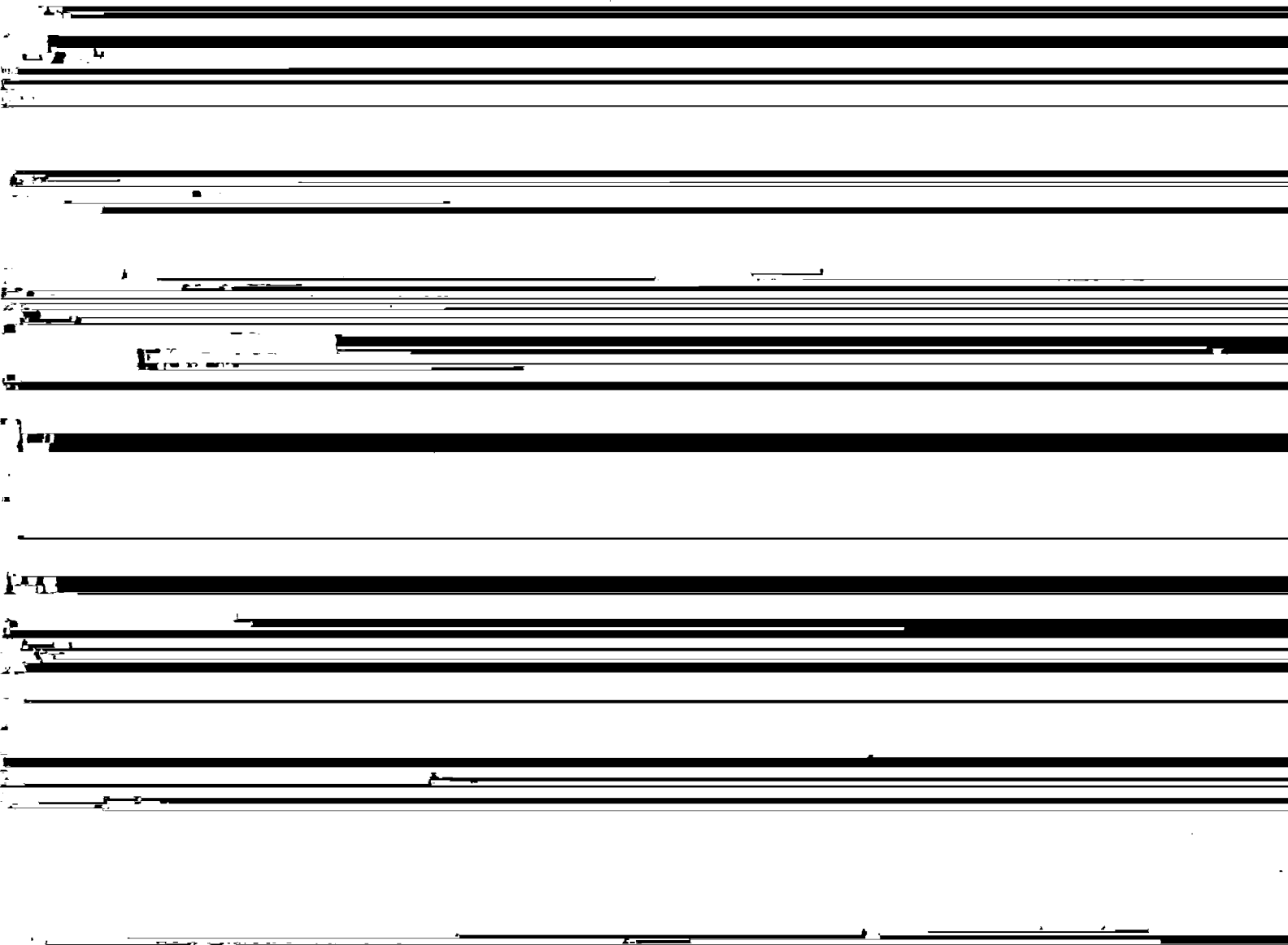
- A. File with the Court, under seal, a full accounting of all funds, documents, and assets outside of the United States

Defendants held by financial institutions located outside the territorial United States.

VI. INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by the preceding Section of this Order, including but not limited to:

1. Sending any statement, letter, fax, e-mail or wire



VII. APPOINTMENT OF A TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Michael R. Tein, Esq., of the law firm Shook, Hardy, & Bacon, is appointed as temporary Receiver for the Corporate Defendant, with the full powers of an equity receiver.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

papers, and records of accounts, including computer-maintained information, and other papers and documents of the Corporate Defendant, including documents related to ~~customers or clients whose interests are now held by or~~

G. Collect all money owed to the Corporate Defendant;

H. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign court necessary to preserve or increase the assets of the Corporate Defendant or to carry out the Receiver's duties pursuant to this Order;

I. Choose, engage and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the temporary Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this

including franchises, and the amount they paid for Defendants' business ventures.

IX. TURNOVER OF PROPERTY TO THE RECEIVER

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants and any other person or entity served with a copy of this Order, shall immediately or within such time as permitted by the temporary Receiver in writing, deliver over to the temporary Receiver:

- A. Possession and custody of all funds, assets, property, and all other assets, owned beneficially or otherwise,

[REDACTED]

access to any of the assets or documents of the Corporate Defendant, including but not limited to, access to the Corporate Defendant' business premises, means of communication, accounts, computer systems, or other property; and

_____ the accounts employees

[REDACTED]

XI. STAY OF ACTIONS

IT IS FURTHER ORDERED that, except by leave of the Court, during the pendency of the receivership ordered herein, Defendants and all other persons and entities are hereby enjoined from taking

impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of the Corporate Defendant, the temporary Receiver, or any agent of the temporary Receiver; and

- D. Doing any act or thing to interfere with the temporary Receiver taking control, possession or management of the property subject to the receivership, or in any way to interfere with the temporary Receiver or the duties of the temporary Receiver; or with the exclusive jurisdiction of this Court over the property and assets of the Corporate Defendant.

the commencement or continuation of an

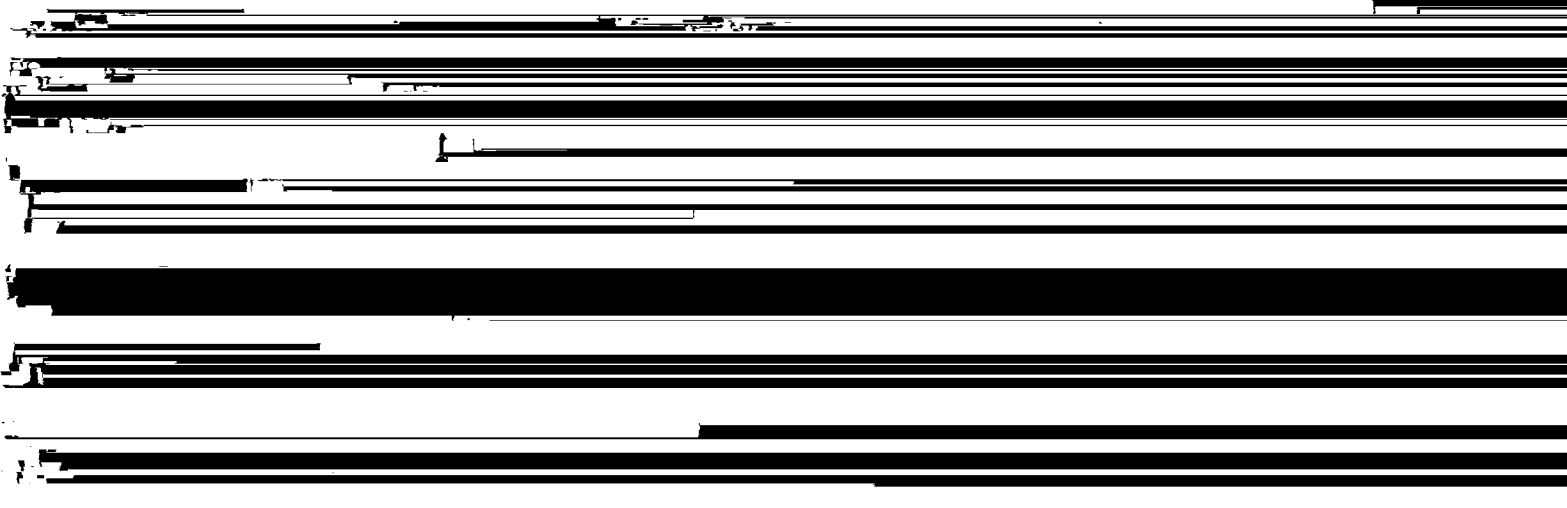
The temporary Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of this Order. The temporary Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

XIII. MAINTENANCE OF RECORDS

IT IS FURTHER ORDERED that all Defendants are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of any documents, in any manner, that relate to the business practices or business or personal finances of the Corporate Defendant or any Individual Defendant.

XIV. ACCESS TO RECORDS AND PREMISES

IT IS FURTHER ORDERED that the temporary Receiver and the defendants shall allow representatives of the Commission immediate



XV. SERVICE OF ORDER BY FAX

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of the Corporate Defendant or any Individual Defendant, or that may be subject to any provision of this Order.

~~VI~~ FINANCIAL STATEMENT.

XIX. SERVICE ON THE COMMISSION

IT IS FURTHER ORDERED that, with regard to any correspondence, pleadings, or notifications related to this Order, service on the Commission shall be performed by personal or facsimile delivery (but not delivery by U.S. Mail) to the attention of Elizabeth A. Hone, Counsel for the Commission, at the Federal Trade Commission, 600 Pennsylvania Ave., N.W., Room 238, Washington, DC 20580, facsimile number (202) 326-3395 before 4:45 p.m. (EST) of the day such service is due.

XX. PAPERS ON MOTION FOR PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 6(d), memoranda and affidavits, if any, supporting or opposing the motion for preliminary injunction shall be served not later than one day before the preliminary injunction hearing.

XXI. PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that three (3) days following service of the Summons, Complaint, and this Order on the Corporate Defendant and Individual Defendants, the Court shall conduct a hearing to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint, against Defendants, enjoining them from further violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a),

and the Franchise Rule, 16 C.F.R. Part 436, continuing the freeze of their assets, appointing a permanent receiver, and imposing such additional relief as may be appropriate.

The parties are instructed to notify Chambers upon service of the Complaint and this Order, so that the Court may provide the

~~_____ to the Defendants~~

[REDACTED]

may hold assets of Defendants, criminal law enforcement authorities or credit reporting agencies.

XXIII. COURT'S RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all purposes.

~~DO NOT USE COMMENTS~~ at Miami, Florida, this 12th day

[REDACTED]