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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CONSUMER ADVOCATES GROUP
EXPERTS, LLC, a California limited
liability company, also d.b.a. Consumer
Advocates Group;
PARAMOUNT ASSET
MANAGEMENT CORP., a California
Corporation, also d.b.a. National
Financial Rescue Corp., National
Financial Rescue Group, and American
Forensic Loan Auditors;
ADVOCATES FOR CONSUMER
AFFAIRS EXPERT, LLC, a California
Limited Liability Company; and
RYAN ZIMMERMAN,

Defendants.

Case No. CV12-04736 DDP(CWx)

PRELIMINARY INJUNCTION
WITH ASSET FREEZE,
APPOINTMENT OF TEMPORARY
RECEIVER AND OTHER
EQUITABLE RELIEF

Date: June 7, 2012
Time: 10:30 a.m.
Place: Courtroom 3, the
Honorable Judge
Dean D. Pregerson

1 Plaintiff, the Federal Trade Commission (“FTC”), pursuant to Sections 13(b)
2 and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and
3 57b, and the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123
4 Stat. 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card
5 Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24,
6 Section 511, 123 Stat. 1734, 1763-64 (May 22, 2009) (“Credit Card Act”), and
7 amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act,
8 Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-
9 Frank Act”), filed its Complaint for Permanent Injunction and Other Equitable
10 Relief, and an *Ex Parte* Temporary Restraining Order with Asset Freeze,
11 Appointment of Temporary Receiver, Expedited Discovery, and Other Equitable
12 Relief, and Order to Show Cause Why Preliminary Injunction Should Not Issue, and
13 Supporting Memorandum (“Memorandum of Points and Authorities in Support of
14 Plaintiff’s *Ex Parte* TRO”), pursuant to Rule 65 of the Federal Rules of Civil
15 Procedure.
16

17 On May 30, 2012, this Court granted Plaintiff’s *Ex Parte* Application for a
18 Temporary Restraining Order and entered a Temporary Restraining Order (“TRO”)
19 with an Order to Show Cause Why a Preliminary Injunction Should Not Issue
20 against Defendants Consumer Advocates Group Experts, LLC (“CAG”), Paramount
21 Asset Management Corporation (“Paramount”), Advocates for Consumer Affairs
22 Expert, LLC (“ACA”), and Ryan Zimmerman (hereinafter referred to collectively as
23 “Defendants”). All Defendants were served with the Summons, Complaint, TRO,
24 and other related papers filed in this action on June 1, 2012.
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26 **DISPOSITION**

27 Having duly considered the parties’ pleadings, papers, and argument, the
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Court hereby **GRANTS**

1 TRO in this case; permitting the FTC access to Defendants' business premises at the
2 discretion of the Temporary Receiver; and the other equitable relief ordered herein.

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4 6. Weighing the equities and considering the FTC's likelihood of ultimate
5 success, this Order is in the public interest.

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1 Consumer Affairs Expert, LLC, and their successors, assigns, affiliates,
2 or subsidiaries, and each of them by whatever names each might be
3 known.

4
5 2. "Individual Defendant" means Ryan Zimmerman and any other names
6 by which he might be known.

7 C. "Document" and "Electronically Stored Information" are synonymous
8 in meaning and equal in scope to the usage of the terms in Rule 34(a) of the Federal
9 Rules of Civil Procedure and include but are not limited to:

10 1. The original or a true copy of any written, typed, printed, electronically
11 stored, transcribed, taped, recorded, filmed, punched, or graphic matter or
12 other data compilations of any kind, including, but not limited to, letters, email
13 or other correspondence, messages, memoranda, interoffice communications,
14 notes, reports, summaries, manuals, magnetic tapes or discs, tabulations,
15 books, records, checks, invoices, work papers, journals, ledgers, statements,
16 returns, reports, schedules, or files; and

17 2. Any electronically stored information stored on any Blackberrys, flash
18 drives, personal digital assistants ("PDAs"), desktop personal computer and
19 workstations, laptops, notebooks, and other portable computers, or other
20 electronic storage media, whether assigned to individuals or in pools of
21 computers available for shared use, or personally owned but used for work-
22 related purposes; backup disks and tapes, archive disks and tapes, and other
23 forms of offline storage, whether stored onsite with the computer used to
24 generate them, stored offsite in another company facility, or stored, hosted, or
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1 which may include persons who are not employees of the company or who do
2 not work on company premises.

3 D. "Electronic Data Host" means any person or entity that stores, hosts, or
4 otherwise maintains electronically stored information.

5 E. "Financial Institution" means any bank, savings and loan institution,
6 credit union, or any financial depository of any kind, including, but not limited to,
7 any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity
8 trading company, or precious metal dealer.

9 F. "Material fact" means any fact that is likely to affect a person's choice
10 of, or conduct regarding, goods or services.

11 G. "Mortgage assistance relief product or service" means any product,
12 service, plan, or program, offered or provided to the consumer in exchange for
13 consideration, that is represented, expressly or by implication, to assist or attempt to
14 assist the consumer with any of the following:
15

- 16 1. stopping, preventing, or postponing any mortgage or deed of trust
17 foreclosure sale for the consumer's dwelling, any repossession of the
18 consumer's dwelling, or otherwise saving the consumer's dwelling from
19 foreclosure or repossession;
- 20 2. negotiating, obtaining, or arranging a modification of any term of a
21 dwelling loan, including a reduction in the amount of interest, principal
22 balance, monthly payments, or fees;
- 23 3. obtaining any forbearance or modification in the timing of payments
24 from any dwelling loan holder or servicer on any dwelling loan;
- 25 4. negotiating, obtaining, or arranging any extension of the period of time
26 within which the consumer may (i) cure
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1 J. "Receivership Estate" means and includes the estate of the Receivership
2 Defendants created by this Order, and as may be modified or expanded by
3 subsequent orders of this Court, including, but not limited to, all Receivership Assets
4 as defined herein, regardless of whether such Receivership Assets are held by any
5 Defendant or Individual Defendant, or third party not presently a party to the above-
6 referenced action.
7

8 K. "Receivership Defendants" means Consumer Advocates Group Experts,
9 LLC, Paramount Asset Management Corp., and Advocates for Consumer Affairs
10 Expert, LLC, and their successors, assigns, affiliates, or subsidiaries, and each of
11 them by whatever names each might be known, provided that the Temporary
12 Receiver has reason to believe they are owned or controlled in whole or in part by
13 any of the Defendants.

14 L. The words "and" and "or" shall be understood to have both conjunctive
15 and disjunctive meanings as necessary to make the applicable phrase or sentence
16 inclusive rather than exclusive.

17 **I.**

18 **PROHIBITED REPRESENTATIONS**

19 **IT IS THEREFORE ORDERED** that Defendants and their officers, agents,
20 servants, employees, and attorneys, and those persons or entities in active concert or
21 participation with any of them who receive actual notice of this Order by personal
22 service, facsimile transmission, email, or otherwise, whether acting directly or
23 through any corporation, subsidiary, division, or other device, in connection with the
24 advertising, marketing, promotion, offering for sale, sale, or performance of any
25 mortgage assistance relief product or service, are hereby restrained and enjoined
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1 from falsely representing, or from assisting others who are falsely representing,
2 expressly or by implication, any of the following:

- 3 A. that any Defendant or any other person:
- 4 1. generally will obtain for consumers mortgage loan modifications
5 that will make consumers' payments substantially more
6 affordable,
7 2. as a result of a loan audit, generally will obtain for consumers
8 mortgage loan modifications that will make consumers' payments
9 substantially more affordable;
10 3. will give refunds to consumers if the Defendant fails to obtain a
11 mortgage loan modification;
- 12 B. The degree of success that any Defendant or any other person has had in
13 performing any mortgage assistance relief service;
- 14 C. The nature of any Defendant's or any other person's relationship with
15 any mortgage loan holder or servicer, or other secured or unsecured
16 lender;
- 17 D. The amount of time it will take or is likely to take to obtain or arrange a
18 renegotiation, settlement, modification, or other alteration of the terms
19 of any secured or unsecured debt, including but not limited to the
20 modification of any term of a consumer's home loan, deed of trust, or
21 mortgage, including any recapitalization or reinstatement agreement;
- 22 E. The consumer's obligation to make scheduled periodic payments or any
23 other payments pursuant to the terms of the consumer's dwelling loan;
- 24 F. The amount of money or percentage of the debt amount that a consumer
25 may save by using the mortgage assistance relief service; and
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G. The refund policy of any Defendant or any other person, including but not limited to the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted to the consumer.

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1. The amount of time it will take the mortgage assistance relief service provider to accomplish any represented service or result; and
2. The amount of money or the percentage of the debt amount that a consumer may save by using the mortgage assistance relief service, in violation of 12 C.F.R. § 1015.3(c);

1 sales offer, including but not limited to, all fees and charges, in violation
2 of 12 C.F.R. § 1015.4(b)(1);

3 F. Failing, in all general commercial communications, consumer-specific
4 commercial communications, and other communications in cases where
5 any Defendant or person has represented, expressly or by implication, in
6 connection with the advertising, marketing, promotion, offering for sale,
7 sale, or performance of any mortgage assistance relief service, that the
8 consumer should temporarily or permanently discontinue payments, in
9 whole or in part, on a dwelling loan, to place clearly and prominently,
10 and in close proximity to any such representation the following
11 disclosure: “If you stop paying your mortgage, you could lose your
12 home and damage your credit rating,” in violation of 12 C.F.R.
13 § 1015.4(c).
14

15 **III.**

16 **PROHIBITION ON COLLECTION OF ADVANCE FEES**

17 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
18 servants, employees, and attorneys, and those persons or entities in active concert or
19 participation with any of them who receive actual notice of this Order by personal
20 service, facsimile transmission, email, or otherwise, whether acting directly or
21 through any corporation, subsidiary, division, or other device, in connection with the
22 advertising, marketing, promotion, offering for sale, sale, or performance of any
23 mortgage assistance relief service, are hereby restrained and enjoined from asking for
24 or receiving payment before
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IV.

PRESERVATION OF RECORDS AND TANGIBLE THINGS

IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are hereby enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents or records that relate to the business practices, or business or personal finances, of Defendants or other entity directly or indirectly under the control of Defendants.

V.

DISABLEMENT OF WEBSITES

IT IS FURTHER ORDERED that, immediately upon service of the Order upon them, (1) any person hosting any Internet website for, or on behalf of, any Defendant, and (2) Defendants and their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, shall:

- A. Immediately do whatever is necessary to ensure that any Internet website used by Defendants for the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, including but not limited to www.consumer-advocates-group.com and www.aca-portal.com, and containing statements or

1 representations prohibited by Sections I and II of this Order cannot be
2 accessed by the public;

3 B. Prevent the destruction or erasure of any Internet website used by
4 Defendants for the advertising, marketing, promotion, offering for sale,
5 sale, or performance of any mortgage assistance relief service, by
6 preserving such website in the format in which it is maintained
7 currently; and

8 C. Immediately notify in writing counsel for the FTC of any other Internet
9 website operated or controlled by any Defendant not listed in
10 Subsections V.A or B above.
11

12 **VI.**

13 **SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

14 **IT IS FURTHER ORDERED** that any domain name registrar shall suspend
15 the registration of any Internet website used by Defendants for the advertising,
16 marketing, promotion, offering for sale, sale, or performance of any mortgage
17 assistance relief service, and containing statements or representations prohibited by
18 Sections I and II of this Order, including, but not limited to www.consumer-
19 advocates-group.com and www.aca-portal.com, and provide immediate notice to
20 counsel for the FTC, the Temporary Receiver, and the Temporary Receiver's
21 attorneys of any other Internet domain names registered or controlled by any
22 Defendants.
23

24 **VII.**

25 **ASSET FREEZE**

26 **IT IS FURTHER ORDERED** that Defendants, and their officers, agents,
27 servants, employees, and attorneys, and all persons or entities directly or indirectly
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1 under the control of any of them, including any financial institution, and all other
2 persons or entities in active concert or participation with any of them who receive
3 actual notice of this Order by personal service, facsimile, email, or otherwise, are
4 hereby restrained and enjoined from directly or indirectly:
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1 such entity's or person's control, except as directed by further order of
2 the Court or as directed in writing by the Temporary Receiver regarding
3 accounts, documents, or assets held in the name of or for the benefit of
4 any Receivership Defendant;

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6 B. Provide the Temporary Receiver, the Temporary Receiver's agents, the
7 FTC, and the FTC's agents immediate access to any data stored, hosted,
8 or otherwise maintained by an electronic data host on behalf of
9 Defendants for forensic imaging;

10 C. Deny access to any safe deposit boxes that are either titled in the name
11 of, individually or jointly, or subject to access by, any Defendant or
12 other party subject to Section VII above;

13 D. Provide to counsel for the FTC and the Temporary Receiver, within one
14 (1) business day, a sworn statement setting forth:

15 1. the identification of each account or asset titled in the name of,
16 individually or jointly, or held on behalf of or for the benefit of,
17 subject to withdrawal by, subject to access or use by, or under the
18 signatory power of any Defendant or other party subject to
19 Section VII above, whether in whole or in part; the balance of
20 each such account, or a description of the nature and value of
21 such asset, as of the close of business on the day on which this
22 Order is served;

23
24 2. the identification of any safe deposit box that is either titled in the
25 name of, individually or jointly, or is otherwise subject to access
26 or control by, any Defendant or other party subject to Section VII
27 above, whether in whole or in part; and
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3. if the account, safe deposit box, or other asset has been closed or removed, the date closed or removed, the balance on said date, and the name or the person or entity to whom such account or other asset was remitted;

E. Provide to counsel for the FTC and the Temporary Receiver, within

1 business entity, electronic data host, or person served with a copy of this
2 Order that holds, controls, or maintains custody of any account,
3 document, electronically stored information, or asset of, on behalf of, in
4 the name of, for the benefit of, subject to withdrawal by, subject to
5 access or use by, or under the signatory power of any Defendant or
6 other party subject to Section VII above, or has held, controlled, or
7 maintained any such account, document, electronically stored
8 information, or asset at any time since January 1, 2009, and such
9 financial or brokerage institution, business entity, electronic data host or
10 person shall respond to such subpoena within three (3) business days
11 after service.
12

13 **IX.**

14 **FINANCIAL STATEMENTS AND ACCOUNTING**

15 **IT IS FURTHER ORDERED** that each Defendant, within three (3) business
16 days of service of this Order, shall prepare and deliver to counsel for the FTC and the
17 Temporary Receiver:

- 18 A. For the Individual Defendant, a completed financial statement accurate
19 as of the date of service of this Order upon such Defendant on the form
20 of Attachment A to this Order captioned "Financial Statement of
21 Individual Defendant."
22
23 B. For each Corporate Defendant, a completed financial statement accurate
24 as of the date of service of this Order upon such Defendant (unless
25 otherwise agreed upon with FTC counsel) in the form of Attachment B
26 to this Order captioned "Financial Statement of Corporate Defendant."
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1 D. Provide the FTC, the Temporary Receiver, and the Temporary
2 Receiver's attorneys access to all records of accounts or assets of the
3 Corporate Defendants and Individual Defendants held by financial
4 institutions located outside the territorial United States by signing the
5 Consent to Release of Financial Records attached to this Order as
6 Attachment C.
7

8 **XII.**

9 **NONINTERFERENCE WITH REPATRIATION**

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

14 A. Sending any statement, letter, fax,
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1 possession, hold, and manage all Receivership Assets and documents of
2 the Receivership Defendants and other persons or entities whose
3 interests are now held by or under the direction, possession, custody, or
4 control of the Receivership Defendants. *Provided, however,* that the
5 Temporary Receiver shall not attempt to collect or receive any amount
6 from a consumer if the Temporary Receiver believes the consumer was
7 a victim of the unlawful conduct alleged in the complaint in this matter;
8

9 C. Take all steps necessary to secure the business premises of the
10 Receivership Defendants. Such steps may include, but are not limited
11 to, the following, as the Temporary Receiver deems necessary or
12 advisable:

- 13 1. serving and filing this Order;
- 14 2. completing a written inventory of all Receivership Assets;
- 15 3. obtaining pertinent information from all employees and other
16 agents of the Receivership Defendants, including, but not limited
17 to, the name, home address, Social Security number, job
18 description, method of compensation, and all accrued and unpaid
19 commissions and compensation of each such employee or agent,
20 and all computer hardware and software passwords;
- 21 4. videotaping and/or photographing all portions of the location;
- 22 5. securing the location by changing the locks and disconnecting
23 any computer modems or other means of access to the computer
24 or other records maintained at that location;
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Temporary Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents;

- 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 Order;
- J. Make payments and disbursements

- 1 M. Defend, compromise, adjust, or otherwise dispose of any or all actions
2 or proceedings instituted in the past or in the future against the
3 Temporary Receiver in his role as Temporary Receiver, or against the
4 Receivership Defendants, that the Temporary Receiver deems necessary
5 and advisable to preserve the assets of the Receivership Defendants or
6 that the Temporary Receiver deems necessary and advisable to carry out
7 the Temporary Receiver's mandate under this Order;
8
- 9 N. Continue and conduct the business of the Receivership Defendants in
10 such manner, to such extent, and for such duration as the Temporary
11 Receiver may in good faith deem to be necessary or appropriate to
12 operate the business profitably and lawfully, if at all; *provided*,
13 *however*, that the continuation and conduct of the business shall be
14 conditioned upon the Temporary Receiver's good faith determination
15 that the businesses can be lawfully operated at a profit using the assets
16 of the receivership estate;
- 17 O. Take depositions and issue subpoenas to obtain documents and records
18 pertaining to the Receivership Estate and compliance with this Order.
19 Subpoenas may be served by agents or attorneys of the Temporary
20 Receiver and by agents of any process server retained by the Temporary
21 Receiver;
- 22
23 P. Open one or more bank accounts in the Central District of California as
24 designated depositories for funds of the Receivership Defendants. The
25 Temporary Receiver shall be the sole signatory on such accounts, shall
26 deposit all funds of the Receivership Defendants in such designated
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1 accounts, and shall make all payments and disbursements from the
2 receivership estate from such account(s);

- 3 Q. Maintain accurate records of all receipts and expenditures that he makes
4 as Temporary Receiver;
- 5 R. Cooperate with reasonable requests for information or assistance from
6 any state or federal law enforcement agency; and
- 7 S. Maintain the chain of custody of all of Defendants' records in his
8 possession, pursuant to procedures to be established in writing with the
9 approval of the FTC.
10

11 **XV.**
12 **TEMPORARY RECEIVER AND FTC IMMEDIATE ACCESS TO**
13 **BUSINESS PREMISES AND RECORDS**

14 **IT IS FURTHER ORDERED** that Defendants and their officers, directors,
15 agents, servants, employees, attorneys, and all other persons or entities directly or
16 indirectly, in whole or in part, under their control, and all other persons in active
17 concert or participation with them who receive actual notice of this Order by
18 personal service, facsimile, email, or otherwise, whether acting directly or through
19 any corporation, subsidiary, division, or other entity, shall:

- 20 A. Immediately identify to FTC's counsel, Temporary Receiver, and the
21 Temporary Receiver's attorneys:
- 22 1. All of Defendants' business premises;
 - 23 2. Any non-residence premises where any Defendant conducts
24 business, sales operations, or customer service operations;
 - 25 3. Any non-residence premises where documents or electronically
26 stored information related to the business, sales operations, or
27 customer service operations of any Defendant are hosted, stored,
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or otherwise maintained, including but not limited to the name and location of any electronic data hosts; and

4. Any non-residence premises where assets belonging to any Defendant are stored or maintained;

B. Allow the FTC and the Temporary Receiver, and their respective representatives, agents, attorneys, investigators, paralegals, contractors, or assistants immediate access to:

1. All of the Defendants' business premises, including but not

1 5. Any documents located at any of the locations described in this
2 Section, and such other locations as may become known to the
3 Temporary Receiver; and

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5 C. Provide the FTC and the Temporary Receiver, and their respective
6 representatives, agents, attorneys, investigators, paralegals, contractors,
7 or assistants with any necessary means of access to, copying of, and
8 forensic imaging of documents or electronically stored information,
9 including, without limitation, the locations of Receivership Defendants'
10 business premises, keys and combinations to business premises locks,
11 computer access codes of all computers used to conduct Receivership
12 Defendants' business, access to (including but not limited to execution
13 of any documents necessary for access to and forensic imaging of) any
14 data stored, hosted or otherwise maintained by an electronic data host,
15 and storage area access information.

16 D. The FTC and the Temporary Receiver are authorized to employ the
17 assistance of law enforcement officers, including, but not limited to, the
18 United States Postal Inspection Service, Internal Revenue Service,
19 Federal Bureau of Investigation, and local police and County Sheriff's
20 Department Officers to effect service, to implement peacefully the
21 provisions of this Order, and to keep the peace. The Temporary
22 Receiver shall allow the FTC and its representatives, agents,
23 contractors, or assistants into the premises and facilities described in
24 this Section to inspect, inventory, image, and copy documents or
25 electronically stored information relevant to any matter contained in this
26 Order. Counsel for the FTC and the Temporary Receiver may exclude
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1 Defendants and their agents and employees from the business premises
2 and facilities during the immediate access. No one shall interfere with
3 the FTC's or Temporary Receiver's inspection of the Defendants'
4 premises or documents.
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6 E. The Temporary Receiver and the FTC shall have the right to remove
7 any documents related to Defendants' business practices from the
8 premises in order that they may be inspected, inventoried, and copied.
9 The materials so removed shall be returned within ten (10) business
10 days of completing said inventory and copying. If any property,
11 records, documents, or computer files relating to the Receivership
12 Defendants' finances or business practices are located in the residence
13 of any Defendant or are otherwise in the custody or control of any
14 Defendant, then such Defendant shall produce them to the Temporary
15 Receiver within twenty-four (24) hours of service of this Order. In
16 order to prevent the destruction of computer data, upon service of this
17 Order upon Defendants, any such computers shall be powered down
18 (turned off) in the normal course for the operating systems used on such
19 computers and shall not be powered up or used again until produced for
20 copying and inspection, along with any codes needed for access. The
21 FTC's and the Temporary Receiver's representatives may also
22 photograph and videotape the inside and outside of all premises to
23 which they are permitted access by this Order, and all documents and
24 other items found on such premises.
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26 F. The FTC's access to the Defendants' documents pursuant to this
27 provision shall not provide grounds for any Defendant to object to any
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any medium, including, but not limited to, any data stored, hosted or otherwise maintained by an electronic data host; and

3. Advising all persons who owe money to the Receivership Defendants that all debts should be paid directly to the Temporary Receiver.

B. Defendants and their officers, directors, agents, servants, employees, attorneys, and all other persons or entities directly or indirectly, in whole or in part, under their control, and all other persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, are hereby restrained and enjoined from directly or indirectly:

1. Transacting any of the business of the Receivership Defendants;
2. Destroying, secreting, erasing, mutilating, defacing, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents, electronically stored information, or equipment of the Receivership Defendants, including, but not limited to, contracts, agreements, consumer files, consumer lists, consumer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, sales

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checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, photographs, mobile devices, electronic storage media, accessories, and any other documents, records or equipment of any kind that relate to the business practices or business or personal finances of the Receivership Defendants or any other entity directly or indirectly under the control of the Receivership Defendants;

- 3. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which

1 monies by the Defendants or any other entity directly or
2 indirectly under the control of the Defendants;

3 7. Doing any act or refraining from any act whatsoever to interfere
4 with the Temporary Receiver's taking custody, control,
5 possession, and managing of the assets or documents subject to
6 this Receivership; or to harass or to interfere with the Temporary
7 Receiver in any way; or to interfere in any manner with the
8 exclusive jurisdiction of this Court over the assets or documents
9 of the Receivership Defendants; or to refuse to cooperate with the
10 Temporary Receiver or the Temporary Receiver's duly authorized
11 agents in the exercise of their duties or authority under any Order
12 of this Court; and

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14 8. Filing, or causing to be filed, any petition on behalf of the
15 Receivership Defendants for relief under the United States
16 Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, without prior
17 permission from this Court.

18 **XVII.**

19 **DELIVERY OF RECEIVERSHIP PROPERTY**

20 **IT IS FURTHER ORDERED** that immediately upon service of this Order
21 upon them or upon their otherwise obtaining actual knowledge of this Order, or
22 within a period permitted by the Temporary Receiver, Defendants and any other
23 person or entity, including but not limited to financial institutions and electronic data
24 hosts, shall transfer or deliver access to, possession, custody, and control of the
25 following to the Temporary Receiver:
26

27 A. All Receivership Assets;

- 1 B. All documents and electronically stored information of the Receivership
2 Defendants, including, but not limited to, books and records of
3 accounts, all financial and accounting records, balance sheets, income
4 statements, bank records (including monthly statements, canceled
5 checks, records of wire transfers, records of ACH transactions, and
6 check registers), client or customer lists, title documents and other
7 papers;
8
- 9 C. All assets belonging to members of the public now held by the
10 Receivership Defendants;
- 11 D. All keys, computer and other passwords, user names, entry codes,
12 combinations to locks required to open or gain or secure access to any
13 assets or documents of the Receivership Defendants, wherever located,
14 including, but not limited to, access to their business premises, means of
15 communication, accounts, computer systems, or other property; and
- 16 E. Information identifying the accounts, employees, properties, or other
17 assets or obligations of the Receivership Defendants.
- 18 F. In the event any person or entity fails to deliver or transfer immediately
19 any asset or otherwise fails to comply with any provision of this Section
20 XVII, the Temporary Receiver may file *ex parte* with the Court an
21 Affidavit of Non-Compliance regarding the failure. Upon filing of the
22 affidavit, the Court may authorize, without additional process or
23 demand, Writs of Possession or Sequestration or other equitable writs
24 requested by the Temporary Receiver. The writs shall authorize and
25 direct the United States Marshal or any sheriff or deputy sheriff of any
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1 county to seize the asset, document, or other thing and to deliver it to
2 the Temporary Receiver.
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4 **XVIII.**

5 **COMPENSATION FOR TEMPORARY RECEIVER**

6 **IT IS FURTHER ORDERED** that the Temporary Receiver and all personnel
7 hired by the Temporary Receiver as herein authorized, including counsel to the
8 Temporary Receiver and accountants, are entitled to reasonable compensation for the
9 performance of duties pursuant to this Order, and for the cost of actual out-of-pocket
10 expenses incurred by them, from the assets now held by or in the possession or
11 control of, or which may be received by, the Receivership Defendants. The
12 Temporary Receiver shall file with the Court and serve on the parties periodic
13 requests for the payment of such reasonable compensation, with the first such request
14 filed no more than ninety (90) days after the date of this Order. The Temporary
15 Receiver shall not increase the hourly rates used as the bases for such fee applications
16 without prior approval of the Court.
17

18 **XIX.**

19 **TEMPORARY RECEIVER'S REPORTS**

20 **IT IS FURTHER ORDERED** that the Temporary Receiver shall report to
21 this Court within ninety (90) days from the date of entry of this Order, regarding:
22 (1) the steps taken by the Temporary Receiver to implement the terms of this Order;
23 (2) the value of all liquidated and unliquidated Receivership Assets; (3) the sum of
24 all liabilities of the Receivership Defendants; (4) the steps the Temporary Receiver
25 intends to take in the future to: (a) prevent any diminution in the value of
26 Receivership Assets, (b) pursue Receivership Assets from third parties, and (c) adjust
27 the liabilities of the Receivership Defendants, if appropriate; (5) the Temporary
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1 Receiver's assessment of whether the business can be operated in compliance with
2 this Order; and (6) any other matters which the Temporary Receiver believes should
3 be brought to the Court's attention. *Provided, however*, if any of the required
4 information would hinder the Temporary Receiver's ability to pursue Receivership
5 Assets, the portions of the Temporary Receiver's report containing such information
6 may be filed under seal and not served on the parties.
7

8 **XX.**

9 **WITHDRAWAL OF TEMPORARY RECEIVER**

10 **IT IS FURTHER ORDERED** that the Temporary Receiver and any
11 Professional retained by the Temporary Receiver, including, but not limited to, his or
12 her attorneys and accountants, be and are hereby authorized to withdraw from his or
13 her respective appointments or representations and apply for payment of their
14 professional fees and costs at any time after the date of this Order, for any reason in
15 their sole and absolute discretion, by sending written notice seven (7) days prior to
16 the date of the intended withdrawal to the Court and to the parties along with a
17 written report reflecting the Temporary Receiver's work, findings, and
18 recommendations, as well as an accounting for all funds and assets in possession or
19 control of the Temporary Receiver. The Temporary Receiver and Professionals shall
20 be relieved of all liabilities and responsibilities, and the Temporary Receiver shall be
21 exonerated and the receivership deemed closed seven (7) days from the date of the
22 mailing of such notice of withdrawal. The Court will retain jurisdiction to consider
23 the fee applications, report, and accounting submitted by the Temporary Receiver
24 and the Professionals. The written notice shall include an interim report indicating
25 the Temporary Receiver's actions and reflect the knowledge Tc2rporary]w[(tions and apply for p
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1 fee applications of the Temporary Receiver and his or her Professionals. The report
2 shall also contain the Temporary Receiver's recommendations, if any.
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4 **XXI.**

5 **TEMPORARY RECEIVER'S BOND/LIABILITY**

6 **IT IS FURTHER ORDERED** that no bond shall be required in connection
7 with the appointment of the Temporary Receiver. Except for an act of gross
8 negligence, the Temporary Receiver and the Professionals shall not be liable for any
9 loss or damage incurred by any of the Defendants, their officers, agents, servants,
10 employees, and attorneys or any other person, by reason of any act performed or
11 omitted to be performed by the Temporary Receiver and the Professionals in
12 connection with the discharge of his or her duties and responsibilities, including but
13 not limited to their withdrawal from the case under Section XX.

14 **XXII.**

15 **PROHIBITION ON RELEASE OF CONSUMER INFORMATION**

16 **IT IS FURTHER ORDERED** that, except as required by a law enforcement
17 agency, law, regulation or court order, Defendants, and their officers, agents,
18 servants, employees, and attorneys, and all other persons in active concert or
19 participation with any of them who receive actual notice of this Order by personal
20 service, facsimile transmission, email, or otherwise, are restrained and enjoined from
21 disclosing, using, or benefitting from consumer information, including the name,
22 address, telephone number, em
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XXIII.

STAY OF ACTIONS

IT IS FURTHER ORDERED that:

- A. Except by leave of this Court, during pendency of the Receivership ordered herein, Defendants and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, the Receivership Defendants, any of their subsidiaries, affiliates, partnerships, assets, documents, or the Temporary Receiver or the Temporary Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:
1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
 2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
 3. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; or

- 1 4. Doing any act or thing whatsoever to interfere with the
2 Temporary Receiver taking custody, control, possession, or
3 management of the assets or documents subject to this
4 Receivership, or to harass or interfere with the Temporary
5 Receiver in any way, or to interfere in any manner with the
6 exclusive jurisdiction of this Court over the assets or documents
7 of the Receivership Defendants;
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9 B. This Section XXIII does not stay:

- 10 1. The commencement or continuation of a criminal action or
11 proceeding;
- 12 2. The commencement or continuation of an action or proceeding by
13 the State Bar of California to enforce its police or regulatory
14 power;
- 15 3. The commencement or continuation of an action or proceeding by
16 a governmental unit to enforce such governmental unit's police or
17 regulatory power;
- 18 4. The enforcement of a judgment, other than a money judgment,
19 obtained in an action or proceeding by a governmental unit to
20 enforce such governmental unit's police or regulatory power; or
21 5. The issuance to a Receivership Defendant of a notice of tax
22 deficiency; and
23

24 C. Except as otherwise provided in this Order, all persons and entities in
25 need of documentation from the Temporary Receiver shall in all
26 instances first attempt to secure such information by submitting a formal
27 written request to the Temporary Receiver, and, if such request has not
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sub-section that has not been reviewed and signed by the deponent may
be used by any u p been reviewed ay
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1 **XXV.**

2 **MONITORING**

3 **IT IS FURTHER ORDERED** that agents or representatives of the FTC may
4 contact Defendants directly or anonymously for the purpose of monitoring
5 compliance with this Order, and may tape record any oral communications that occur
6 in the course of such contacts.
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8 **XXVI.**

9 **DEFENDANTS' DUTY TO DISTRIBUTE ORDER**

10 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a
11 copy of this Order to each affiliate, subsidiary, division, sales entity, successor,
12 assign, officer, director, employee, independent contractor, client company,
13 electronic data host, agent, attorney, spouse, and representative of Defendants and
14 shall, within three (3) calendar days from the date of entry of this Order, provide
15 counsel for the FTC with a sworn statement that: (a) confirms that Defendants have
16 provided copies of the Order as required by this Section and (b) lists the names and
17 addresses of each entity or person to whom Defendants provided a copy of the Order.
18 Furthermore, Defendants shall not take any action that would encourage officers,
19 agents, directors, employees, salespersons, independent contractors, attorneys,
20 subsidiaries, affiliates, successors, assigns, or other persons or entities in active
21 concert or participation with Defendants to disregard this Order or believe that they
22 are not bound by its provisions.
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24 **XXVII.**

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1 correspondence and service of pleadings on Plaintiff shall be sent either via
2 electronic submission or via Federal Express to:

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4 Miry Kim
5 Federal Trade Commission
6 915 Second Ave., Suite 2896
7 Seattle, WA 98174
8 Mkim@ftc.gov

9
10 with a copy to:

11
12 Raymond E. McKown
13 Federal Trade Commission
14 10877 Wilshire Blvd., Suite 700
15 Los Angeles, CA 90024
16 rmckown@ftc.gov

17 **XXVIII.**

18 **SERVICE OF THIS ORDER**

19 **IT IS FURTHER ORDERED** that copies of this Order may be served by
20 facsimile transmission, email, personal or overnight delivery, or U.S. Mail, by agents
21 and employees of the FTC or any state or federal law enforcement agency or by
22 private process server, upon any financial institution or other entity or person that
23 may have possession, custody, or control of any documents or assets of any
24 Defendant, or that may otherwise be subject to any provision of this Order. Service
25 upon any branch or office of any financial institution shall effect service upon the
26 entire financial institution.
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XXIX.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes of construction, modification, and enforcement of this Order.

XXX.

IMMEDIATE RETURN OF FUNDS TO RECEIVER

IT IS ALSO ORDERED that Defendant Zimmerman shall turn over to the Receiver any and all funds withdrawn after Defendant received notice of the Temporary Restraining Order issued in this action. Defendant shall turn over any such funds within twenty-four (24) hours of service of this Order.

Defendant is advised that willful violation of a court order may constitute contempt of court, the penalties for which may include imprisonment among other consequences.

IT IS SO ORDERED, this 7th day of June, 2012, at 11:45 a.m., Pacific Standard Time.

Dated: June 7, 2012



Dean D. Fiegelson
UNITED STATES DISTRICT JUDGE