

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL TRADE COMMISSION ,

Plaintiff,

v.

NATIONAL PAYMENT
PROCESSING LLC, a Georgia
limited liability company,

NATI88 -1.154 Td ()T2 -1.1CR0P53.7(L-3.6(NT)--3.7(S)3.7(DE)--8.1(VI)-3.8(CE)-3.7(S)

Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FDCA, 15 U.S.C. §§ 1692– 1692p, and that the FTC is therefore likely to prevail on the merits of this action;

3. There is good cause to believe that consumers will suffer immediate and continuing harm from Defendants' ongoing violations of Section 5(a) of the FTC Act and the FDCPA unless Defendants are restrained and enjoined by Order of this Court;
4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution and disgorgement of ill-gotten gains will occur from the transfer, dissipation, or concealment by Defendants of their assets or business records unless Defendants are immediately restrained and enjoined by Order of this Court; and that in accordance with Fed. R. Civ. P. 65(b), the interest of justice requires that the FTC's Motion be heard *ex parte* without prior notice to Defendants. Therefore, there is good cause for relieving the FTC of the duty to provide Defendants with prior notice of the FTC's Motion;

5. Good cause exists for appointing a receiver over the Corporate Defendants, permitting the FTC immediate access to Defendants' business premises;
6. Weighing the equities and considering the FTC's likelihood of ultimate success, a temporary restraining order with an asset freeze, appointment of a receiver, immediate access to business premises, and other equitable relief is in the public interest; and
7. No security is required of any agency of the United States for issuance of a TRO, Fed. R. Civ. P. 65(c).

DEFINITIONS

- A. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and all cash, wherever located.
- B. "Consumer" means any person.
- C. "Corporate Defendants" means National Payment Processing LLC, National Client Services LLC, d/b/a AFS Legal Services, AFS Services, Account Financial Services, and Account Financial Solutions, and their

4. that the consumer has committed a law violation or criminal act, including check fraud
5. that nonpayment of any debt will result in the arrest imprisonment of any person or in seizure, garnishment, attachment or sale of a consumer's property or wages;
6. that Defendants are bringing or intend to bring a lawsuit or other legal action against the consumers for nonpayment of the alleged debt; and

prohibit consumers from receiving such communications, or for the purpose of threatening actions that may cause a consumer to lose his or her employment;

- E. Causing a telephone to ring or engaging a person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass a person at the called number;
- F. Falsely representing or implying that Defendants are vouched for, bonded by, or affiliated with the United States or any State;
- G. Falsely representing or implying that any individual is an attorney or that any communication is from an attorney;
- H. Falsely representing or implying that nonpayment of any debt will result in the arrest or imprisonment of any person when Defendants do not intend to take such action;
- I. Threatening to take action that is not lawful or that any Defendant or any other person does not intend to take;
- J. Failing to disclose

collector attempting to collect a debt and that any information

common control with any Defendant, and any assets held by, for, or under the name of any Defendant at any bank, savings and loan institution, or bank of any Defendant, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind;

- B. Opening or causing to be opened any safe deposit boxes titled in the name of any Defendant, or subject to access by any Defendant;
- C. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of any Defendant;
- D. Incurring liens or encumbrances on real property, personal property or other assets in the name, singly or jointly, of any Defendant; and
- E. Cashing any checks from consumers, clients, or customers of any Defendant.
- F. The funds, property, and assets affected by this Section shall include:
 - (a) all assets of each Defendant as of the time this Order is entered, and
 - (b) those assets obtained after entry of this Order that are obtained through any debt collection activities that predate the entry of this Order.

RETENTION OF ASSETS AND RECORDS BY FINANCIAL
INSTITUTIONS AND OTHER THIRD PARTIES

- III. IT IS FURTHER ORDERED that any financial brokerage institution or depository, escrow agent, title company, commodity trading company, trust, entity, or person that holds, controls, or maintains custody of any account or asset owned or controlled, directly or indirectly, by any Defendant, or has held, controlled, or maintained any account or asset of, or on behalf of, any Defendant, upon service with a copy of this Order, shall:
- A. Hold and retain within its control and prohibit Defendants from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, gifting, or otherwise disposing of any accounts, assets, funds, or other property that are owned by, held in the name of, for the benefit of, or otherwise controlled by, directly or indirectly, any Defendant, in whole or in part, except as directed by further order of the Court or as directed in writing by the Receiver regarding accounts, documents, or assets owned by, held in the name of for the benefit of or otherwise controlled by any Receivership Defendant

- B. Deny the Defendants access to any safe deposit box titled in the name of any Defendant, individually or jointly, or subject to access by any Defendant, whether directly or indirectly.
- C. Provide counsel for Plaintiff and the Receiver, within three (3) business days after being served with a copy of this Order, a certified statement setting forth:
1. the identification number of each such account or asset titled
 - (a) in the name, individually or jointly, of any Defendant;
 - (b) held on behalf of, or for the benefit of, any Defendant;
 - (c) owned or controlled by any Defendant; ~~or~~ (otherwise subject to access by any Defendant, directly or indirectly;
 2. the balance of each such account or a description of the nature and value of such asset as of the close of business on the day which this Order is served and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted;

3. the identification of any safe deposit box that is either titled in the name of any Defendant or is otherwise subject to access by any Defendant; and
 4. if an account, safe deposit box, or other asset has been closed or removed, the date closed ~~or~~ removed, the balance on such date, and the manner in which such account or asset was closed or removed.
- D. Provide counsel for Plaintiff and the Receiver, within three (3) business days after being served with a request, copies of all documents pertaining to such account or asset, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; provided that such institution or custodian may charge a reasonable fee.

FINANCIAL REPORTS AND ACCOUNTING

IV. IT IS FURTHER ORDERED that each Defendant, within three (3) business days of service of this Order, shall prepare and deliver to counsel for the FTC:

A. For the Individual Defendants, a completed financial statement accurate as of the date of service of this Order upon such Defendant (unless otherwise agreed upon with FTC counsel) on the of Attachment A to this Order captioned, "Form Re: Financial Statement for Individual Defendant."

or assignee; (c) the date of the transfer or assignment; and (d) the type and amount of consideration paid the Defendant. Each statement shall specify the name and address of each financial institution and

trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly;

- B. Transfer to the territory of the United States all assets, accounts, funds, and documents in foreign countries held either: (1) by them; (2) for their benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly;
- C. Hold and retain all repatriated assets, accounts, funds, and documents, and prevent any transfer, disposition, or dissipation whatsoever of any such assets, accounts, funds, or documents; and
- D. Provide the FTC access to all records of accounts or assets of the Corporate Defendants and the Individual Defendants held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order as Attachment C.

NON-INTERFERENCE WITH REPATRIATION

VII. IT IS FURTHER ORDERED that Defendants, and each of their

VIII. The Court shall appoint a Receiver, to be named at a later date, as Receiver for the business activities of the Receivership Defendants with the full power of an equity receiver. The Receiver's powers and duties are described herein. The Receiver shall be the agent of this Court and solely the agent of this Court in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court. The Receiver shall comply with any laws and Local Rules of this Court governing receivers.

DUTIES OF RECEIVER

- IX. IT IS FURTHER ORDERED that the Receiver is directed and authorized to accomplish the following:
- A. Assume full control of the Receivership Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent of any of the Receivership Defendants, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Defendants;
 - B. Take exclusive custody, control, and possession of all assets, documents, and electronically stored information of, or in the possession, custody, or under the control of, the Receivership

Defendants wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take possession, hold, and manage all business-related assets and documents of the Receivership Defendants and other persons or entities whose assets are now held by or under the direction, possession, custody, or control of the Receivership Defendants. The Receiver shall not take custody, control, or possession of purely personal property unrelated to the business practices of the Receivership Defendants. Provided, however, that the Receiver shall not attempt to collect or receive any amount from a consumer if the Receiver believes the consumer was a victim of the unlawful conduct alleged in the complaint in this matter;

- C. Take all steps necessary to secure the business premises of the Receivership Defendants. Such steps may include, but are not limited to, the following, as the Receiver deems necessary or advisable:
1. serving and filing this Order;
 2. completing a written inventory of all Receivership assets;
 3. obtaining pertinent information from all employees and other agents of the Receivership Defendants, including, but not

- D. Conserve, hold, and manage all Receivership assets, and perform all acts necessary or advisable to preserve the value of those assets, in order to prevent any irreparable loss, damage, or injury to consumers or to creditors of the Receivership Defendants, including, but not limited to, obtaining an accounting of the assets and preventing transfer, withdrawal, or misapplication of assets;
- E. Liquidate any and all securities or commodities owned by or for the benefit of the Receivership Defendants that the Receiver deems to be advisable or necessary;
- F. Enter into contracts and purchase insurance as the Receiver deems to be advisable or necessary;
- G. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with the Receivership Defendants;
- H. Manage and administer the lawful portion of the business of the Receivership Defendants, if any, until further order of this Court by performing all incidental acts that the Receiver deems to be advisable

- L. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal, or foreign courts that the Receiver deems necessary and advisable to preserve or recover the assets of the Receivership Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;
- M. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against the Receivership Defendants, that the Receiver deems necessary and advisable to preserve the assets of the Receivership Defendants or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;
- N. Continue and conduct the business of the Receivership Defendants in such manner, to such extent, and for such duration as the Receiver may in good faith deem to be necessary or appropriate to operate the

the Receiver's good faith determination that the businesses can be lawfully operated at a profit using the assets of the receivership estate;

- O. Take depositions and issue subpoenas to obtain documents and records pertaining to the receivership estate ~~and~~ compliance with this Order. Subpoenas may be served by agents or attorneys of the Receiver and by agents of any process server retained by the Receiver;
- P. Open one or more bank accounts in the Northern District of Georgia as designated depositories for ~~fund~~ of the Receivership Defendants. The Receiver shall deposit all funds of the Receivership Defendants in such a designated account and shall make all payments and disbursements from the receivership estate from such account(s);
- Q. Maintain accurate records ~~of~~ all receipts and expenditures that the Receiver makes as Receiver;
- R. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency; and

- S. Be responsible for maintaining the chain of custody of all of Defendants' records in his possession, pursuant to procedures to be established in writing with the approval of the FTC

RECEIVER AND FTC IMMEDIATE ACCESS TO
BUSINESS PREMISES AND RECORDS

- X. IT IS FURTHER ORDERED that:

- A. Defendants and their officers, directors, agents, servants, employees, attorneys, successors, assigns, 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, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, shall:

1. Immediately identify to FTC's counsel and the Receiver:

- a. All of Defendants' business premises
- b. Any non-residence premises where any Defendant conducts business, debt collection operations, or customer service operations;

- c. Any non-residence premises where documents or electronically stored information related to the business, debt collection operations, or customer service operations of any Defendant are hosted, stored, or otherwise maintained, including but not limited to the name and location of any electronic data hosts; and
- d. Any non-residence premises where assets belonging to any Defendant are stored or maintained;

combinations to business premises locks, computers, and
telephones including mobile phone access codes of all
computers used to conduct Receivership Defendants' business,
access to (including but not limited to execution of any
documents necessary for access to and forensic imaging of) any
data stored, hosted or otherwise maintained by an electronic
data host, and storage area access information.

- B. The FTC and the Receiver are authorized to employ the assistance of
law enforcement

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premises and facilities during the immediate access. No one shall interfere with the FTC's or Receiver's inspection of the Defendants' premises or documents.

- C. The Receiver and the FTC shall have the right to remove any documents related to Defendants' business practices from the premises in order that they may be inspected, inventoried, and copied. The materials so removed shall be returned within five (5) business days of completing said inventory and copying. If any property, records, documents, or computer files relating to the Receivership Defendants' finances or business practices are located in the residence of the Individual Defendant or are otherwise in the custody or control of the Individual Defendant, then such Defendant shall produce them to the Receiver within twentyfour (24) hours of service of this Order. In order to prevent the destruction of computer data, upon service of this Order upon Defendants, any such computers shall be powered down (turned off) in the normal course for the operating systems used on such computers and shall not be powered up or used again until produced for copying and inspection, along with any codes needed for

access. The FTC's and the Receiver's representatives may also photograph or videotape the inside and outside of all premises to which they are permitted access by this Order, and all documents and other items found on such premises.

- D. Any purely personal property, records, documents or computer files not related to the business or financial activities of Defendant identified upon examination shall be sequestered and not disclosed absent further order of the court unless such property, records, documents or computer files are evidence of a crime.
- E. The FTC's access to the Defendants' documents pursuant to this provision shall not provide grounds for any Defendant to object to any subsequent request for documents served by the FTC.
- F. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

COOPERATION WITH RECEIVER

XI. IT IS FURTHER ORDERED that:

- A. Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations,

subsidiaries, affiliates, successors, and assigns, all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, shall fully cooperate with and assist the Receiver. Defendants' cooperation and assistance shall include, but not be limited to:

1. Providing any information to the Receiver that the Receiver deems necessary to exercising the authority and discharging the responsibilities of the Receiver under this Order, including but

Defendants ~~at~~ all debts should be paid directly to the Receiver.

B.

Defendants, or the Receiver;

4. Excusing debts owed to the Receivership Defendants;
5. Failing to notify the Receiver of any asset, including accounts, of a Receivership Defendant held in any name other than the name of the Receivership Defendant, or by any person or entity other than the Receivership Defendant, or failing to provide any assistance or information requested by the Receiver in connection with obtaining possession, ~~only~~ or control of such assets;
6. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use of monies by the Defendants or ~~any~~ other entity directly or indirectly under the control of the Defendants;
7. Doing any act or refraining from any act whatsoever to interfere with the Receiver's taking custody, control, possession, or managing of the assets or documents subject to this Receiv~~er~~ership; or to harass or to interfere with the Receiver in

any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Defendants; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any Order of this Court; and

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

DELIVERY OF RECEIVERSHIP PROPERTY

XII. IT IS FURTHER ORDERED that:

- A. Immediately upon service of this Order upon them or upon their otherwise obtaining actual knowledge of this Order, or within a period permitted by the Receiver, Defendants or any other person or entity, including but not limited to financial institutions and electronic data hosts, shall transfer or deliver access to, possession, custody, and control of the following to the Receiver

1. All assets of the Receivership Defendants;
2. All documents and electronically stored information of the Receivership Defendants, including, but not limited to, books and records of accounts, all financial and accounting records, balance sheets, income ~~state~~ statements, bank records (including monthly statements, canceled checks, records of wire transfers, records of ACH transactions, and check registers), client or customer lists, title documents and other papers;
3. All assets belonging to members of the public ~~held~~ by the Receivership Defendants;
4. All keys, computer, telephone, including mobile phone ~~and~~ other passwords, entry codes, combinations to locks required to open or gain or secure access to any assets or documents of the Receivership Defendants, ~~where~~ located, including, but not limited to, access to their business premises, means of communication, accounts, computer systems, or other property; and
5. Information identifying the accounts, employees, properties, or

other assets or obligations of the Receivership Defendants.

- B. In the event any person or entity fails to deliver or transfer immediately any asset or otherwise fails to comply with any provision of this Section XII, the Receiver may file ~~ex parte~~ with the Court an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset, document, or other thing and to deliver it to the Receiver.

COMPENSATION FOR RECEIVER

- XIII. IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order, and for the cost of actual ~~out of pocket~~ expenses incurred by them, from the assets now held by or in the possession or control of, or which may be received by, the Receivership Defendants.

The 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 Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

RECEIVER'S REPORTS

XIV. IT IS FURTHER ORDERED that the Receiver shall report to this Court on or before the date set for the hearing to Show Cause regarding the Preliminary Injunction, regarding: (1) the steps taken by the Receiver to implement the terms of this Order; (2) the value of all liquidated and unliquidated assets of the Receivership Defendants; (3) the sum of all liabilities of the Receivership Defendants; (4) the steps the Receiver intends to take in the future to: (a) prevent any diminution in the value of assets of the Receivership Defendants, (b) pursue receivership assets from third parties, and (c) adjust the liabilities of the Receivership Defendants, if appropriate; (5) whether the business of the Receivership Defendants can be

however,if any of the required information would hinder the Receiver's ability to pursue receivership assets, the portions of the Receiver's report containing such information may be filed under seal and not served on the parties.

RECEIVER'S BOND

- XV. IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of ~~10~~\$10000.00 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

PROHIBITION ON RELEASE OF CONSUMER INFORMATION

- XVI. IT IS FURTHER ORDERED that, except as required by a law enforcement agency, law,

access to a consumer's account (including a credit card, bank account, or other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with any debt collection service.

STAY OF ACTIONS

XVII. 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 (9 st,

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 ~~which~~ specified in this Order or not; or
4. Doing any act or thing whatsoever to interfere with the Receiver taking custody, control, possession, or management of the assets or documents subject to this Receivership, or to harass or interfere with the Receiver in any way, or to interfere in any mann.^{5(r.3lt3/.1(ki)8.5]3(io.5(ge)3.6(m)/ TJ 5(nt)8.5(axe)3. to)}

2. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
3. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or
4. T

Mail, by agents and employees of the FTC or any state or federal law enforcement agency or by private process server, on Defendants or any other persons or entities that may be subject to any provision of this Order.

DISTRIBUTION OF ORDER BY DEFENDANTS

XIX. IT IS FURTHER ORDERED that within three (3) calendar days after service of this Order, Defendants shall provide a copy of this Order to each of their agents, employees, directors, officers, subsidiaries, affiliates, attorneys, independent contractors, representatives, franchisees, and all persons in active concert or participation with Defendants. Within five (5)

Rock, Federal Trade Commission, 225 Peachtree Street NE, Atlanta, Georgia, 30303 Email: rrock@ftc.gov; Telephone: (404) 6561368; Facsimile: (404) 6561379

ORDER TO SHOW CAUSE AND PRELIMINARY INJUNCTION
HEARING

XXI. IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that Defendants shall appear on the ~~day~~ of November 2015, at 10:30 a.m. at the United States Courthouse, Courtroom 2388, Atlanta, Georgia 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 the FTC Act and the FDCPA, and imposing such additional relief as may be appropriate.

SERVICE OF PLEADINGS, EVIDENCE, WITNESS LISTS

XXII. IT IS FURTHER ORDERED that:

A. Defendants shall file any answering affidavits, pleadings, ~~or~~ file

serve the same on counsel for Defendants no later than one (1) business day prior to the preliminary injunction hearing in this matter. Provided that service shall be performed by personal or overnight delivery, facsimile, or email, and documents shall be delivered so that

IT IS SO ORDERED, this 3rdday of November,
2015, at 2:45 o'clock p.m.

UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF GEORGIA