

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

Case No. 1:12-CV-188-R

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CAREER EXAMS, INC.,
a corporation, also
d/b/a Career Advancement Group;

O'BRIEN MARKETING, INC.,
a corporation, also
d/b/a O'Brien Consulting,
and O'Brien Answers;

JERYN B. LEE,
individually and as an officer of
Career Exams, Inc.; and

DEREK JACKSON,
individually and as an officer of
O'Brien Marketing, Inc.;

Defendants.

**TEMPORARY RESTRAINING ORDER WITH OTHER
EQUITABLE RELIEF, AND ORDER SETTING DATE FOR
HEARING ON MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), has filed a

Complaint for Permanent Injunction and Other Equitable Relief, and has moved for a temporary restraining order and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure.

FINDINGS

The Court has considered the pleadings, declarations, exhibits, and memoranda filed in support of the Commission's application and makes the following findings of fact:

1. This Court has jurisdiction of the subject matter of this case, and there is good cause to believe it will have jurisdiction over all parties.
2. There is good cause to believe that venue lies properly in this Court.
3. There is good cause to believe that Defendants Career Exams, Inc., also d/b/a Career Advancement Group; O'Brien Marketing, Inc., also d/b/a O'Brien Consulting and O'Brien Answers; Jeryn B. Lee; and Derek Jackson (collectively, "Defendants") have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and that the Commission therefore is likely to prevail on the merits of this action.
4. There is good cause to believe that the Defendants will continue to engage in such unlawful actions if not immediately restrained from doing so by Order of this Court. There is also good cause to believe that immediate and irreparable damage to this Court's ability to grant effective final relief will result from the sale, transfer, or other disposition or concealment by the Defendants of their assets or business records, unless the Defendants are immediately restrained and enjoined by Order of this Court.
5. There is good cause for the Court to order an asset freeze against the Defendants.

The Commission is likely to be able to prove that Defendants have generated revenue from activity that violates Section 5 of the FTC Act. An asset freeze as to the Defendants is necessary in order to preserve the possibility of complete and meaningful relief in the form of disgorgement and/or consumer redress at the conclusion of this litigation.

6. Weighing the equities and considering the Commission's likelihood of ultimate success, a temporary restraining order requiring an immediate freeze as to all of the Defendants' assets, appointing a monitor, providing expedited discovery regarding the location of assets, preserving business records, and providing other equitable relief is in the public interest.

7. Rule 65(c) of the Federal Rules of Civil Procedure does not require security of the United States or an officer or agency thereof for the issuance of a restraining order.

DEFINITIONS

For the purpose of this order, the following definitions shall apply:

1. **"Assets"** means any legal or equitable interest in, right to, or claim to, any real, personal, or intellectual property of any Corporate Defendant or Individual Defendant (as defined below) or held for the benefit of any Corporate Defendant or Individual Defendant wherever located, including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises, contracts, mail or other deliveries, shares of stock, list of customer names, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), funds, cash, and trusts, including but not limited to any other trust held for the benefit of any Corporate Defendant or Individual Defendant, any Individual Defendant's minor children, or any Individual Defendant's spouse.

2. **“Corporate Defendants”** means Career Exams, Inc., also d/b/a Career Advancement Group (“Career Advancement”), and O’Brien Marketing, Inc., also d/b/a O’Brien Consulting and O’Brien Answers (“O’Brien”), and any other d/b/a of Career Advancement and O’Brien and their successors, assigns, affiliates, or subsidiaries.

3. **“Defendant” or “Defendants”** means, individually, collectively or in any combination: (a) each Corporate Defendant; and (b) each Individual Defendant.

4. **“Document” or “Documents”** 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, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, computer records, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

5. **“Individual Defendants”** means Jeryn B. Lee, individually and through any d/b/a, and Derek Jackson, individually and through any d/b/a.

6. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

7. **“Plaintiff”** means the Federal Trade Commission.

8. **“Representative”** means any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee, or attorney of any Defendant; and all persons or entities in active concert or participation with any of the foregoing, who receive notice of this Order by personal service or otherwise.

9. The terms **“and”** and **“or”** shall be construed conjunctively or disjunctively as necessary, and to make the applicable phrase or sentence inclusive rather than exclusive.

PROHIBITED BUSINESS ACTIVITIES

I.

IT IS THEREFORE ORDERED that Defendants and their Representatives are temporarily restrained and enjoined from directly or indirectly, expressly or by implication:

- A.** Marketing, advertising, or promoting the availability of employment with the United States Postal Service (the “Postal Service”), or selling any product or service in connection with such employment; and
- B.** Making misrepresentations in the marketing, promotion, or offer for sale of any good or service regarding any fact material to a consumer’s decision to purchase, including but not limited to representations concerning:
 - 1. the availability of jobs in consumers’ geographic areas;
 - 2. the process of obtaining employment, including representations concerning any examination requirement;

3. the likelihood that consumers who purchase Defendants' goods or services will obtain jobs; and
4. The availability of refunds.

ASSET FREEZE

II.

IT IS FURTHER ORDERED that the Defendants and their Representatives are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, shares of stock, or other assets, or any interest therein, wherever located, that are: (1) owned or controlled by the Defendants, in whole or in part, for the benefit of the Defendants; (2) in the actual or constructive possession of the Defendants; or (3) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant, including, but not limited to, any assets held by or for, or subject to access by, any of the Defendants, at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metals dealer, or other financial institution or depository of any kind, including without limitation the following account:

a. XXXXXXXX7636 at US Bank;

B. Opening or causing to be opened any safe deposit boxes titled in the name of any Defendant, or subject to access by any of them;

C. Obtaining a loan titled in the name of any Corporate Defendant, or subject to access by any of them;

D. Incurring liens or other encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant; and

E. Incurring charges or cash advances on any credit or bank issued card in the name, individually or jointly, of any Corporate Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Individual Defendant or of which any Individual Defendant is an officer, director, member, or manager. This includes, but is not limited to, any corporate bank card or corporate credit card account for which any Individual Defendant is, or was on the date that this Order was signed, an authorized signor.

Provided, however, that the assets affected by this Section shall include: (1) all of the assets of any Defendant existing as of the date this Order was entered; and (2) for assets obtained after the date this Order was entered, only those assets of any Defendant that are derived from conduct prohibited in Section I.

FINANCIAL REPORTS

III.

IT IS FURTHER ORDERED that each Individual Defendant and each Corporate Defendant, within five (5) days of receiving notice of this Order, shall provide the Commission with completed financial statements, verified under oath and accurate as of the date of entry of

this Order, on the forms attached to this Order as **Attachment A** for each Individual Defendant and **Attachment B** for each Corporate Defendant. Defendants shall include in the financial statements a full listing of all funds and assets, whether located inside or outside of the United States, that are: (a) titled in the name of any Defendant, jointly, severally, or individually; (b) held by any person or entity for the benefit of any Defendant; or (c) under the direct or indirect control of any Defendant.

DUTIES OF ASSET HOLDERS

IV.

IT IS FURTHER ORDERED that, pending determination of the Commission's request for a preliminary injunction, any financial or brokerage institution, business entity, or person served with a copy of this Order that (a) holds, controls, or maintains custody of any account or asset of any Defendant, or that has held, controlled or maintained custody of any such account or asset at any time since the date of entry of this Order; or (b) holds, controls, or maintains custody of any asset associated with credit or debit card charges, including but not limited to reserve funds held by payment processors, made on behalf of any Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant, or of which any Defendant is an officer, director, member, or manager; shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such asset except by further order of the Court;

B. Deny any person access to any safe deposit box that is:

1. titled in the name of any Defendant, individually or jointly; or
2. otherwise subject to access by any Defendant;

C. Provide the Commission's counsel, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. the identification number of each such account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of any Defendant;
2. the balance of each such account, or a description of the nature and value of each such asset as of the close of business on the day on 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; and
3. the identification of any safe deposit box that is titled in the name, individually or jointly, of any Defendant, or is otherwise subject to access by any Defendant; and

D. Upon request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to each such account or asset, including but not limited to originals or copies of account applications, account statements, loan applications, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, 1099 forms, and safe deposit box logs.

FOREIGN ASSET REPATRIATION

V.

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

A. Provide the Commission with a full accounting of all funds, documents, and assets outside of the United States which are (1) titled in the name, individually or jointly, of any Defendant; (2) held by any person or entity for the benefit of any Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant;

B. Transfer to the territory of the United States all funds, documents, and assets located in foreign countries which are (1) titled in the name individually or jointly of any Defendant; or (2) held by any person or entity, for the benefit of any Defendant; or (3) under the direct or indirect control of any Defendant, whether jointly or singly;

C. The same business day as any repatriation, (1) notify counsel for the Commission of the name and location of the financial institution or other entity that is the recipient of such funds, documents, or assets; and (2) serve this Order on any such financial institution or other entity; and

D. Provide the Commission access to all records of accounts or assets of any Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records appended to this Order as **Attachment C**.

INTERFERENCE WITH REPATRIATION

VI.

IT IS FURTHER ORDERED that Defendants and their Representatives 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 Section V of this Order, including but not limited to

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement until such time that all assets have been fully repatriated pursuant to Section V of this Order; or

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a court order, until such time that all assets have been fully repatriated pursuant to Section V of this Order.

IMMEDIATE PRODUCTION OF BUSINESS RECORDS

VII.

IT IS FURTHER ORDERED that Defendants shall, within five (5) business days of the entry of this Order, produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, the following materials:

A. All sales scripts and any other scripts used by Defendants or on behalf of

Defendants;

B. All customer information, including, but not limited to, names, phone numbers, addresses, e-mail addresses, and payment and refund information for all consumers who have purchased from Defendants;

C. All success stories or testimonials from customers;

D. All complaints or refund requests from customers, whether sent directly to Defendants or received through any law enforcement agency or third-party organizations such as the Better Business Bureau, and any responses from Defendants;

E. All documents related to advertising Defendants' products or services in any form (e.g., print, internet, direct mail, billboards, etc.), including but not limited to copies of such advertisements, correspondence discussing the text or location of such advertisements, data collected to confirm or substantiate the information presented in such advertisements, and communications with advertisers or third-party agencies involved in placing such advertisements;

F. Accounting information, including, but not limited to, sales data, profit and loss statements, annual reports, receipt books, and ledgers;

G. All training and human resource materials, including but not limited to policy manuals, memoranda to sales and customer service staff, and documents related to warnings or disciplinary actions against any of Defendants' employees;

H. Recordings of any sales calls or customer service calls;

I. All computers and data in whatever form, used by Defendants, including but not

limited to hard drives, cd-roms, zip disks, USB flash drives, and any other electronic storage media on which information has been saved, and all access codes, passwords, log-in information, and equipment needed to access such material. Within one (1) business day of the entry of this Order, Defendants shall (1) notify counsel for the Commission of the name and location of any person or entity that is hosting, storing, or otherwise maintaining electronic data (“Electronic Data Host”) related to Defendants’ operations; and (2) serve this Order on any such person or entity. Defendants shall provide such Electronic Data Host with their consent for the Federal Trade Commission and its agents to receive access to Defendants’ data for the purpose of forensic imaging, and Defendants shall execute any documents and otherwise cooperate as necessary to facilitate such access.

The Commission shall return material produced pursuant to this Section within five (5) business days of Defendants’ production.

APPOINTMENT OF TEMPORARY MONITOR

VIII.

IT IS FURTHER ORDERED that Jerry A. Burns, P.S.C., 1719 Ashley Circle, Suite is 120, Bowling Green, KY 42104, (270) 796-9090, is appointed temporary monitor (the “Monitor”). for the Corporate Defendants. The Monitor shall be the agent of this Court, and solely the agent, of this Court, in acting as Monitor under this Order. The Monitor shall be accountable directly to this Court.

TEMPORARY MONITOR’S DUTIES

IX.

IT IS FURTHER ORDERED that the Monitor is authorized and directed to monitor the

Corporate Defendants' compliance with this Order. The Monitor may accomplish this by:

A. Identifying and reviewing marketing materials, advertisements, sales scripts, training materials, call logs, call detail records, or other documents that reflect marketing, advertising, promotion, distribution, offer for sale or sale of goods or services;

B. Contacting or communicating with any affiliate, sales entity, employee, independent contractor, client company, agent, banks or other financial institution, payment processor or attorney of the Corporate Defendants;

C. Ensuring Corporate Defendants provide actual notice of this Order to their employees and affiliates as required by Section XIX below;

D. Identifying and reviewing the Corporate Defendants' financial records and financial transactions to ensure that all such documents are preserved and that Corporate Defendants provide the financial reports as required by Section III above;

E. Reviewing Corporate Defendants' responses to requests for any expedited discovery provided in Section XV below;

F. Identifying customer information held by the Corporate Defendants and reviewing or proposing policies and procedures designed to ensure that all such documents are preserved;

G. Identifying and inventorying assets of the Corporate Defendants to ensure that all such assets are preserved;

H. Identifying and inventorying business records of the Corporate Defendants to ensure that all such records are preserved;

I. Cooperating with reasonable requests for information or assistance from any state or federal law enforcement agency;

J. Interviewing any current or former employee of the Corporate Defendants and

other Representatives of the Corporate Defendants to obtain and copy pertinent information;

K. Interviewing any current or former officer, manager, independent contractor, subcontractor, financial institution, vendor, telecommunications provider, agent, service bureau, or other entity involved in the provision of any services from, to, or on behalf of the Corporate Defendants;

L. Copying or imaging documents that the Monitor deems necessary for purposes of preservation or otherwise carrying out the Monitor's duties pursuant to this Order; and

M. Engaging attorneys, investigators, paralegals or other specialists, as the Monitor deems necessary, to assist the Monitor. The Monitor is also authorized to obtain the assistance of the U.S. Marshal's office and other federal, state and local law enforcement officers as the Monitor deems necessary to fulfill the duties set forth in this Section. If requested by the Monitor, the United States Marshal will provide appropriate and necessary assistance to the Monitor to implement this Order and is authorized to use any necessary and reasonable force to do so.

PROVISION OF INFORMATION TO MONITOR

X.

IT IS FURTHER ORDERED that Defendants shall provide to the Monitor, immediately upon request, the following:

A. A list of all assets and property, including accounts, of the Corporate Defendants, including assets and property of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all assets and documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants;

C. A list of all locations where documents of the Corporate Defendants are located, and the means to access such documents;

D. Access to all documents of the Corporate Defendants, including but not limited to, books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records, clients lists, and other papers;

E. Access to all computers, electronic devices and machines and data in whatever form used to conduct the business of the Corporate Defendants;

F. Copies of all keys, codes, user names and passwords necessary to gain or secure access to any assets or documents of the Corporate Defendants, including, but not limited to, access to their business premises, means of communication, accounts, computer systems, or other property; and

G. A list of all agents, employees, officers, servants or those persons in active concert and participation with the Corporate Defendants, who have been associated or done business with the Corporate Defendants.

In the event that any person or entity fails to comply with any provision of this Section, the Monitor may file an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, Writs of Possession or Sequestration or other equitable writs requested by the Monitor. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the asset, document or other item covered by this Section and to deliver it to the Monitor.

COOPERATION WITH THE MONITOR

XI.

IT IS FURTHER ORDERED that Defendants, their Representatives, and any other person served with a copy of this Order shall fully cooperate with and assist the Monitor. This cooperation and assistance shall include, but not be limited to: providing information to the Monitor that the Monitor deems necessary in order to exercise the authority and discharge the responsibilities of the Monitor under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; informing the Monitor of all persons who owe a debt or obligation to the Corporate Defendants; and producing records related to the assets and sales of the Corporate Defendants. The entities obligated to cooperate with the Monitor under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers and other financial institutions and depositories of any kind, and all common carriers, third-party billing agents, including but not limited to, payment processors, and other telecommunications companies, that have transacted business with the Corporate Defendants.

INTERFERENCE WITH THE MONITOR

XII.

IT IS FURTHER ORDERED that Defendants and their Representatives, except as provided herein, as stipulated by the parties, or as directed by further of order of the Court, are hereby restrained and enjoined from directly or indirectly:

- A.** Destroying, secreting, defacing, transferring, or otherwise altering or disposing of

any documents of the Corporate Defendants;

B. Interfering with the Monitor's efforts to inventory or review the assets or documents subject to the duties of the Monitor;

C. 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 an interest is held or claimed by, the Corporate Defendants; and

D. Refusing to cooperate with the Monitor or the Monitor's duly authorized agents in the exercise of their duties or authority under any order of this Court.

STAY OF ACTIONS AGAINST CORPORATE DEFENDANTS

XIII.

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of this Order, Defendants, their Representatives, corporations, subsidiaries, divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or documents of the Corporate Defendants, including, but not limited to:

A. Petitioning, or assisting in the filing of a petition, that would cause any Corporate Defendant to be placed in bankruptcy;

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of

process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise.

Provided that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) 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.

The Court is aware that the foregoing provision is exceedingly broad and may need to be re-examined should the temporary restraining order issue after a hearing on the matter.

COMPENSATION OF MONITOR

XIV.

IT IS FURTHER ORDERED that the Monitor and all personnel hired by the Monitor as herein authorized, 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 of the Corporate Defendants. The Monitor shall file with the Court and serve on the parties a request for the payment of such reasonable compensation following the Preliminary Injunction hearing in this case.

EXPEDITED DISCOVERY

XV.

IT IS FURTHER ORDERED that, in anticipation of the preliminary injunction hearing in this matter, the Commission and the Monitor are authorized to conduct expedited discovery concerning Defendants' assets, Defendants' whereabouts, and the location of business premises and records in accordance with the following provisions:

A. The Commission and the Monitor may take the depositions of parties and non-parties. Forty-eight (48) hours notice shall be sufficient notice for such depositions;

B. The Commission and the Monitor may serve upon parties requests for production of documents or inspection that require production or inspection within five (5) calendar days of service, and may serve subpoenas upon non-parties that direct production or inspection within five (5) calendar days of service;

C. The Commission and the Monitor may serve deposition notices and other discovery requests upon the parties to this action by facsimile or overnight courier, and depositions may be taken by telephone, Skype, or other remote electronic means; and

D. Any Discovery taken pursuant to this Order is in addition to, and is not subject to, the presumptive limits on discovery set forth in the Federal Rules of Civil Procedure and Local Rules of this Court.

CUSTOMER LISTS

XVI.

IT IS FURTHER ORDERED that the Defendants and their Representatives are hereby temporarily restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, credit card number, debit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any Defendant, at any time prior to entry of this Order, in connection with the telemarketing, advertising, promoting, offering for sale, and selling of employment goods or services. *Provided, however,* that the Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

PRESERVATION OF RECORDS

XVII.

IT IS FURTHER ORDERED that the Defendants and their Representatives are hereby temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, writing over, or otherwise disposing of, in any manner, directly or indirectly, any documents or records of any kind that relate to the business practices or business or personal finances of any of the Corporate Defendants or Individual Defendants, including but not limited to, computerized files and storage media on which information has been saved (including, but not limited to, floppy disks, hard drives, CD-ROMS, zip disks, punch cards, magnetic tape, backup tapes, and computer chips), and any and all equipment needed to read any such material,

contracts, accounting data, correspondence, advertisements (including, but not limited to, advertisements placed on the World Wide Web or the Internet), FTP logs, Service Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices or business or personal finances of any of the Corporate Defendants or Individual Defendants.

RECORD KEEPING AND BUSINESS OPERATIONS

XVIII.

IT IS FURTHER ORDERED that the Defendants and their Representatives are hereby temporarily restrained and enjoined from:

A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their assets (including but not limited to income, loans, gifts, and revenue), disbursements, transactions, expenditures and any other use of money; and

B. Creating, operating, or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the Commission with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers and employees; and (4) a detailed description of the business entity's intended activities.

DISTRIBUTION OF ORDER BY DEFENDANTS

XIX.

IT IS FURTHER ORDERED that the Defendants shall immediately provide a copy of this Order to each affiliate, subsidiary, hosting company, division, sales entity, successor, assign, officer, director, employee, independent contractor, client company, agent, attorney, and spouse of each Defendant, and shall, within ten (10) days from the date of entry of this Order, provide the Commission with a sworn statement that the Defendants have complied with this provision of the Order, which statement shall include the names, physical addresses, and e-mail addresses of each such person or entity who received a copy of the Order.

SERVICE OF ORDER

XX.

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 of any Individual Defendant or Corporate Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

CONSUMER CREDIT REPORTS

XXI.

IT IS FURTHER ORDERED that, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish consumer

reports on each Individual Defendant and any spouse of these Defendants to the Commission.

DURATION OF TEMPORARY RESTRAINING ORDER

XXII.

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on November 16, 2012 at 3:00p.m. CST, unless, before such time, the Court, for good cause shown, extends it for an additional period not to exceed fourteen (14) days, or unless the Defendants consent to a longer extension.

HEARING REGARDING PRELIMINARY INJUNCTION

XXIII.

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that Defendants shall appear before this Court on the 16th day of November , 2012, at 9:00a.m. CST in Paducah, Kentucky for a hearing as to why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against the Defendants, enjoining them from further violations of law alleged in the Complaint, continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

XXIV.

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on the Commission's counsel all memoranda, affidavits, declarations, and other evidence on which they intend to rely at the preliminary injunction hearing set in Section XXIII no later than November 13, 2012, at noon CST. The Commission may file responsive or supplemental

memoranda, affidavits, declarations, and other evidence with the Court and serve the same on counsel for the Defendants no later than November 15, 2012, at noon CST.

MOTION FOR LIVE TESTIMONY; WITNESS IDENTIFICATION

XXV.

IT IS FURTHER ORDERED that the question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendant during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. Live testimony shall be heard only on further order of this Court or on motion filed with the Court and served on counsel for the other parties no later than November 13, 2012 at noon CST. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony, and an explanation of why the taking of live testimony would be helpful to the Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties no later than November 15, 2012, at noon CST.

SERVICE UPON THE COMMISSION

XXVI.

IT IS FURTHER ORDERED that, with regard to any correspondence or pleadings related to this Order, service on the Commission shall be performed by overnight mail delivery to the attention of Daniel O. Hanks and Emily Cope Burton at the Federal Trade Commission,

600 Pennsylvania Avenue, NW, Room H-286, Washington, DC 20580 or by electronic mail to dhanks@ftc.gov and eburton@ftc.gov.

RETENTION OF JURISDICTION

XXVII.

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

IT IS SO ORDERED, this 2nd day of November, 2012, at 3:00p.m. CST.

A handwritten signature in black ink that reads "Thomas B. Russell". The signature is written in a cursive style and is positioned over a circular seal of the United States District Court.

**Thomas B. Russell, Senior Judge
United States District Court**

November 2, 2012