

FILED

2009 MAR 26 AM 9:05

CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

FILED UNDER SEAL

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CASE NO: 8:09-cv-547-T-23TBM

HOME ASSURE, LLC,

B HOME ASSOCIATES, LLC, d/b/a  
Expert Foreclosures,

BRIAN BLANCHARD,  
individually and as a member, officer,  
or director of Home Assure, LLC, and  
B Home Associates, LLC,

MICHAEL GRIECO,  
MICHAEL TRIMARCO, and  
NICOLAS MOLINA,  
individually and as members, officers,  
or directors of Home Assure, LLC,

Defendants.

\_\_\_\_\_ /

**TEMPORARY RESTRAINING ORDER  
WITH ASSET FREEZE, APPOINTMENT OF TEMPORARY RECEIVER,  
AND OTHER EQUITABLE RELIEF AND ORDER TO SHOW CAUSE  
WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

The plaintiff, the Federal Trade Commission (the "Commission"), sues the Defendants pursuant to Section 13(b) of the Federal Trade Commission Act (the "FTC Act"), 15 U.S.C. § 53(b), and seeks preliminary and permanent injunctive relief,

I certify the foregoing to be a true  
and correct copy of the original.  
SHERYL L. LOESCH, Clerk  
United States District Court  
Middle District of Florida  
By: [Signature]  
Deputy Clerk

S-11

rescission or reformation of contracts, restitution, disgorgement, and other equitable relief for the Defendants' alleged deceptive acts or practices in connection with the sale of mortgage foreclosure rescue services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The Commission having filed its complaint and having moved (Doc. S-4) ex parte for a temporary restraining order and preliminary injunction under Rule 65, Federal Rules of Civil Procedure, and the court having considered the complaint, declarations, exhibits, and memorandum of law filed in support thereof, finds that:

1. The court has jurisdiction of the subject matter of this case and there is good cause to believe that the court will have jurisdiction over all the parties.
2. There is good cause to believe that venue lies properly in this court.
3. There is good cause to believe that the Defendants Home Assure LLC, B Home Associates, LLC, also doing business as Expert Foreclosure, Brian Blanchard, Michael Grieco, Michael Trimarco, and Nicolas Molina have engaged in and are likely to continue 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 is likely to prevail on the merits of this action.
4. There is good cause to believe that immediate and irreparable injury, loss, or damage to the court's ability to grant final and effective relief for consumers in the form of monetary redress will occur from the sale, transfer, or other disposition or concealment by the Defendants of assets or records during the pendency of this action unless the Defendants are immediately restrained and enjoined by order of this court. There is thus good cause for an asset freeze, immediate access to the Defendants'

business premises, appointment of a temporary receiver, and for relieving the Commission of the duty to provide the Defendants with prior notice of the Commission's motion pending a hearing on preliminary injunctive relief and to ensure the possibility of consumer redress and other effective final relief.

5. Good cause exists for requiring the Defendants to produce an accounting of their business assets, sworn financial statements, profit-and-loss statements, and sworn personal financial statements.

6. Weighing the equities and considering the Commission's likelihood of ultimate success on the merits, an ex parte temporary restraining order is in the public interest.

7. No security is required of any agency of the United States for issuance of a temporary restraining order. Fed. R. Civ. P. 65(c).

Accordingly, the Commission's "Motion for an ex parte Temporary Restraining Order with Asset Freeze and other Equitable Relief and Order to Show Cause Why a Preliminary Injunction Should Not Issue" (S-4) is **GRANTED** as follows.

#### **DEFINITIONS**

For purposes of this temporary restraining order, the following definitions shall apply:

1. "Asset" or "assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises,

mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever located.

2. **"Financial Institution"** means any bank, savings and loan institution, credit union, financial institution, brokerage house, escrow agent, money market or mutual fund, telephone or other common carrier, storage company, trustee or any other person, partnership, corporation, or other legal entity maintaining or having control of any records, accounts, or other assets, owned directly or indirectly, of record or beneficially, by any Defendant, including accounts or other assets that any Defendant may control by virtue of being a signatory on said accounts.

3. **"Mortgage foreclosure rescue service"** means any service, product, or program wherein the offeror, expressly or by implication, claims that it can assist a homeowner in any manner to: (A) stop, prevent, or postpone any home mortgage foreclosure sale; (B) obtain any forbearance from any beneficiary or mortgagee; (C) exercise any statutory right of reinstatement; (D) obtain any extension of the period within which the owner may reinstate his obligation; (E) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in that deed of trust or mortgage; (F) obtain a loan or advance of funds; (G) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale; (H) save the owner's residence from foreclosure; or (I) assist the owner in obtaining from the beneficiary, mortgagee, trustee under a power of sale, or counsel for the beneficiary, mortgagee, or trustee, the remaining proceeds from the

foreclosure sale of the owner's residence. The foregoing shall include any manner of claimed assistance, including but not limited to debt, budget, or financial counseling; receiving money for the purpose of distributing it to creditors; contacting creditors on behalf of the homeowner; arranging or attempting to arrange for an extension of the period within which the owner of property sold at foreclosure may cure his default; arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale; and giving advice of any kind with respect to filing for bankruptcy.

4. **"Individual Defendants"** means Brian Blanchard, Michael Grieco, Michael Trimarco, and Nicolas Molina.

5. **"Business Defendants"** means the Defendants Home Assure, LLC, and B Home Associates, LLC, doing business as Expert Foreclosure, and their successors and assigns.

6. **"Defendants"** means all the Individual Defendants and the Business Defendants, individually, collectively, or in any combination.

7. **"Receivership Defendants"** means the Business Defendants and any entity or name through which the Business Defendants conduct business.

8. **"Document"** is synonymous with and equal in scope to the term as defined in Rule 34(a), Federal Rules of Civil Procedure, and includes both documents and electronically stored information, including but not limited to writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term "document."

9. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

10. "Person" means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

11. 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.

#### I. CONDUCT PROHIBITIONS

**IT IS HEREBY ORDERED** that, in connection with the advertising, marketing, promotion, offering for sale, or sale of any goods or services, including but not limited to mortgage foreclosure rescue services, the Defendants and their officers, agents, employees, and corporations, and those persons 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, including but not limited to fictitious business names, are hereby temporarily restrained and enjoined from making or assisting in the making of, expressly or by implication, orally or in writing, any statement or representation of material fact that is false or misleading, to any consumer, including but not limited to any false or misleading representation that (1) the Defendants will stop foreclosure in all or virtually all instances or (2) the Defendants will refund consumers' fees in all instances if foreclosure is not stopped.

**IT IS FURTHER ORDERED** that, if the Defendants represent that they will refund all or part of any fees or other monies to consumers, the Defendants are enjoined from failing to honor that refund.

## **II. ASSET FREEZE**

**IT IS FURTHER ORDERED** that the Defendants and their officers, agents, employees, and corporations, and all those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, including financial institutions, whether acting directly or through any trust, corporation, subsidiary, division, or other device, including but not limited to fictitious business names, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, pledging, loaning, granting a lien or security interest or other interest in, or otherwise disposing of any funds, credit instruments, real or personal property, accounts, contracts, lists of consumer names, shares of stock, or other assets, wherever located, including outside the United States, that are:

1. Owned or controlled by any Defendant, in whole or in part, including but not limited to any assets held by, for, or in the name of the Defendants at any bank or savings and loan institution or credit card processing agent, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, merchant account processor, check processor, or other financial institution, depository of any kind, or business entity, including but not limited to Bank of America, NA, Wachovia Bank, NA, and MoneyGram International;

2. In the actual or constructive possession of any Defendant;
3. Held by an agent of any Defendant as a retainer for the agent's provision of services to any Defendant; or
4. Owned, controlled by, or in the actual or constructive possession of any corporation, partnership, limited liability company, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant.

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

C. Cashing any checks or depositing any payments received from customers of the Defendants;

D. Incurring charges on any credit card issued in the name, singly or jointly, of any Defendant;

E. Collecting, opening, or causing to be collected or opened, any mail received by or on behalf of the Receivership Defendants, at any address including but not limited to 2010 Drew Street, Clearwater, Florida, 33765, and failing to turn over any such mail to the Temporary Receiver;

F. Obtaining a personal or secured loan; and

G. Incurring liens or other encumbrances on real property, personal property, or other asset held in the name, singly or jointly, of any Defendant.

The assets affected by this Section shall include both existing assets and assets acquired after the effective date of this order.



Notwithstanding the provisions of this Section, the Defendants may make transfers as directed by the Temporary Receiver appointed by this court or as otherwise ordered by the court upon proper showing after notice to counsel for the Commission.

### **III. PROHIBITION ON DISCLOSURE OF CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that the Defendants and their officers, agents, employees, and corporations, and those persons 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, including but not limited to fictitious business names, 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 for the purchase of any good or service or who were contacted or on a list to be contacted by any Defendant. However, the Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

### **IV. [DELETED]**

### **V. RETENTION OF ASSETS AND RECORDS HELD BY THIRD PARTIES**

**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 holds, controls, or maintains custody of any account or asset of any Defendant or has held, controlled, or maintained custody of any such account or asset at any time since January, 2005, shall:

A. Prohibit the Defendants from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any such account or asset except as directed by further order of the court;

B. Deny the Defendants access to any safe deposit box that is titled in the name of any of the Defendants, either individually or jointly, or otherwise subject to access by any of the Defendants, either individually or jointly;

C. Provide to counsel for the Commission and the Temporary Receiver, within five business days of receiving a copy of this order, a sworn statement setting forth:

1. The identification number and description of each such account or asset titled in the name, individually or jointly, of the Defendants, 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 such asset, as of the close of business on the day on which this order is served, and, if the account or asset has been closed or removed, the date closed or removed, the total funds removed 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, individually or jointly, of the Defendants, or otherwise subject to access by any Defendant; and

D. Within forty-eight hours of a request by the Temporary Receiver or the Commission, provide the Temporary Receiver and the Commission copies of all records or other documentation pertaining to any account or asset of any Defendant,

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; and

E. Cooperate with all requests of the Temporary Receiver relating to implementation of this order, including transferring funds or other assets at the Temporary Receiver's direction and producing records relating to the accounts or assets of any Defendant.

#### **VI. DUTIES OF THIRD PARTIES PROCESSING PAYMENTS FOR THE DEFENDANTS**

**IT IS FURTHER ORDERED** that any automated clearing house, network transaction processor, business entity, or person providing any services or assistance in processing the Defendants' customer payments (including but not limited to payments made by bank account debits or checks for any of the Defendants) that receives actual notice of this order by personal service or otherwise is hereby temporarily restrained and enjoined from providing any assistance in the processing of any payments made by consumers to any of the Defendants and from collecting any fees or charges in connection with providing such assistance.

#### **VII. REPATRIATION OF ASSETS AND DOCUMENTS LOCATED IN FOREIGN COUNTRIES**

**IT IS FURTHER ORDERED** that the Defendants shall:

A. Within forty-eight hours after service of this order, take such steps as are necessary to transfer to the territory of the United States of America all documents and assets that are located outside of such territory and are held by or for the benefit of the Defendants or are under their direct or indirect control, jointly, severally, or individually;

B. Within forty-eight hours after service of this order, provide counsel for the Commission and the Temporary Receiver with a full accounting of all documents and assets that are located outside of such territory and are held by or for the benefit of the Defendants or are under their direct or indirect control, whether jointly, severally, or individually;

C. Hold and retain all documents and assets transferred pursuant to Subsection A above, and prevent any transfer, disposition, or dissipation whatsoever of any such assets or funds; and

D. Within forty-eight hours of service of this order, provide counsel for the Commission with access to records and documents of the Defendants held by financial institutions outside the territorial United States of America by signing and delivering to counsel for the Commission the Consent of Release of Financial Records attached hereto as Attachment A.

#### VIII. INTERFERENCE WITH REPATRIATION

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

A. Sending any statement, letter, facsimile, 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 all assets have been fully repatriated pursuant to Section VII of this order; and

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

**IX. IMMEDIATE ACCESS TO THE DEFENDANTS' BUSINESS PREMISES**

**IT IS FURTHER ORDERED** that the Defendants and their officers, agents, employees, and corporations, and those persons 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, including but not limited to fictitious business names, shall allow the Temporary Receiver and the Commission's representatives immediate access to the Defendants' business premises, including but not limited to all such premises located at 2010 Drew Street, Clearwater, Florida, 33765 and all sales offices, branch offices, storage facilities, or other business premises used by the Defendants. The purpose of this access shall be solely to inspect and copy materials relevant to this action and to inventory the assets and documents of the Defendants, including but not limited to:

A. Documents evidencing, referring to, or relating to each Defendant's financial status, including but not limited to the nature or location of any bank account, safe deposit box, or any other asset of any Defendant;

B. Documents evidencing, referring to, or relating to the advertising, promoting, offering for sale, and sale of mortgage foreclosure rescue services and other services to any consumer and any correspondence, transaction, or other communication by or between any consumer or prospective consumer and any Defendant or any of their representatives, employees, agents, or officers; and

C. Documents evidencing or referring to any correspondence, action, or other communication by or between any law enforcement agency, consumer group, or Better Business Bureau and any Defendant or any of their representatives, employees, agents, or officers.

The Defendants shall provide the Commission and the Temporary Receiver with all necessary means of access to these materials, including without limitation keys, lock combinations, and computer access codes. The Temporary Receiver and the Commission may remove such materials from the Defendants' business premises so that the materials may be inspected, inventoried, and copied, so long as all such documents are returned within five business days of completing the inventory and copying in the same condition as when removed to the offices from which they were removed. In no event shall such materials be retained longer than ten business days. The Commission's representatives and the Temporary Receiver may also photograph and videotape the inside and outside of all premises to which they are permitted access by this order and all other documents and items found on such premises.

**IT IS FURTHER ORDERED** that law enforcement personnel may accompany the Commission's representatives and the Temporary Receiver in implementing the provisions of this Section in order to keep the peace and maintain the security of the Commission's representatives and the Temporary Receiver. No one shall interfere with the Commission's representatives or the Temporary Receiver's inspection of the Defendants' premises or documents.

#### **X. EXPEDITED DISCOVERY**

**IT IS FURTHER ORDERED** that the Commission and the Temporary Receiver may conduct certain expedited discovery and that, upon entry of this order, in lieu of the

time periods, notice provisions, and other requirements of Rules 26, 30, 34, and 45, Federal Rules of Civil Procedure, expedited discovery shall proceed as follows:

Pursuant to Rule 30, the Commission may take depositions upon oral examination concerning the nature, location, status, and extent of the Defendants' assets; the status and location of documents reflecting the Defendants' business transactions; and compliance with this order, on two days' notice of any such deposition. Depositions may be taken Monday through Saturday. Deposition transcripts that have not been signed by the witness may be used for purposes of the hearing on the order to show cause why a preliminary injunction should not issue.

This Subsection shall not be construed to preclude the Commission's right to take subsequent depositions of the same witnesses on the merits of this action.

Any deposition taken pursuant to this Subsection is in addition to and not subject to the presumptive limits on depositions in Rule 30(a)(2)(A).

Pursuant to Rule 34(b), the Defendants shall produce all documents requested by the Commission within two days of the request, with production of documents made to the Commission counsel at the address listed in Section XXV or to such other person or place as counsel for the Commission may direct in writing.

In the event any of the Defendants' documents have been removed from the Defendants' premises by and are in the possession of another law enforcement or investigative agency, the Commission may have immediate access to such documents for purposes of inspection, indexing, and copying, subject to the agency's consent to the Commission's access.

## **XI. FINANCIAL REPORTS**

**IT IS FURTHER ORDERED** that each Defendant shall within forty-eight hours of service of this order prepare and deliver to the Temporary Receiver and to counsel for the Commission:

A. Completed financial statements on the forms attached to this order as Attachments B and C for each Individual Defendant, for each Receivership Defendant, and for each business entity (whether or not incorporated) under which they conduct any business or of which any Defendant is an owner or officer, and for each trust of which any Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this order; and

B. All current accountants' reports; all federal tax returns filed since January 1, 2007; documents indicating title to real or personal property; and other indicia of ownership that are now in any of the Defendants' actual or constructive possession.

## **XII. IDENTIFYING INFORMATION RELATING TO ACCOUNTANTS, FINANCIAL PLANNERS, INVESTMENT ADVISORS, AND OTHERS**

**IT IS FURTHER ORDERED** that the Defendants shall within forty-eight hours of service of this order provide counsel for the Commission and the Temporary Receiver: (1) the name, address, and telephone number of each accountant, financial planner, investment advisor, stock broker, or other individual, corporation, limited liability company, or partnership that the Defendants hired for personal advice or services since January 1, 2007, and (2) the name, address, and telephone number of each accountant, financial planner, investment advisor, stock broker or other individual,



corporation, limited liability company, or partnership that was hired on behalf of the Defendants since January 1, 2007.

### **XIII. RECORD KEEPING/BUSINESS OPERATIONS**

**IT IS FURTHER ORDERED** that the Defendants and their officers, agents, employees, and corporations, and those persons 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, including but not limited to fictitious business names, are hereby temporarily restrained and enjoined from:

A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of money;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, discs, or other computerized records, 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 of any kind that relate to the business practices or business or personal finances of the Defendants; and

C. Creating, operating, or exercising any control over any new business entity, including any partnership, limited partnership, joint venture, sole proprietorship, limited

liability company, or corporation, without first providing counsel for 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.

#### **XIV. DISTRIBUTION OF ORDER BY THE DEFENDANTS**

**IT IS FURTHER ORDERED** that the Defendants shall immediately provide a copy of this order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and representative of the Defendants and shall, within five calendar days from the date of entry of this order, provide counsel for the Commission and the Temporary Receiver a sworn statement that each Defendant has complied with this provision, which statement shall include the name and address of each such person or entity who has received a copy of this order. The Temporary Receiver has no obligation under this Section.

#### **XV. APPOINTMENT OF TEMPORARY RECEIVER**

**IT IS FURTHER ORDERED** that Robb Evans of Robb Evans & Associates LLC, whose address is 11450 Sheldon Street, Sun Valley, California 91352-1121, is appointed Temporary Receiver for the Receivership Defendants, with the full power of an equity receiver for the Receivership Defendants and all of the funds, properties, premises, accounts, and other assets directly owed by the Receivership Defendants. The Temporary Receiver shall be solely the agent of this court in acting as Temporary Receiver under this order. The Temporary Receiver shall be accountable directly to this court. The Temporary Receiver shall comply with all Local Rules of this court governing receivers.

## XVI. RECEIVERSHIP DUTIES AND AUTHORITY

IT IS FURTHER ORDERED that the Temporary Receiver is directed and authorized to accomplish the following:

A. Assume full control of the Receivership Defendants by removing, as the Temporary Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent of the Receivership Defendants, including any Individual Defendant, from control of, management of, or participation in, the affairs of the business of the Receivership Defendants and manage and administer the business of the Receivership Defendants until further order of this court by performing all incidental acts that the Temporary Receiver deems necessary or advisable, which include retaining or hiring any employees, independent contractors, or agents;

B. Collect, marshal, and take exclusive custody, control, and possession of all funds, property, books and records, accounts, mail, and other assets and documents of, or in the possession, custody, or control of, the Receivership Defendants, wherever situated, including but not limited to 2010 Drew Street, Clearwater, Florida, 33765. The Temporary Receiver's authority to collect any and all mail relating to the affairs of the Receivership Defendants in the possession, custody, or control of the Defendants shall extend to mail in the possession of any third parties. The Temporary Receiver shall have full power to change mailing addresses of the Receivership Defendants. The Temporary Receiver shall have full power to change any locks on any real or personal property of the Receivership Defendants. The Temporary Receiver shall have full power to divert mail, sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work papers, and records of accounts, including computer-maintained information, and other papers and

documents of the Receivership Defendants, including documents related to customers or clients whose interests are now held by or under the direction, possession, custody, or control of the Defendants or under the control of any third party for the benefit of the Defendants. The Temporary Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to the Receivership Defendants.

However, the Temporary Receiver shall not without prior court approval attempt to collect any amount from a consumer if the Temporary Receiver believes that the consumer was a victim of the deceptive acts or practices alleged in the complaint in this matter;

C. Take all steps necessary to secure the business premises of the Receivership Defendants, including but not limited to all such premises located at 2010 Drew Street, Clearwater, Florida, 33765. Such steps may include but are not limited to any of the following, as the Temporary 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 limited to the name, home address, social security number, job description, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) photographing and videotaping any or all portions of the Receivership Defendants' business premises; (5) securing the Receivership Defendants' business premises by changing the locks on any real or personal property of the Receivership Defendants; (6) disconnecting any computer modems or other means of access to the computer or other records maintained at the Receivership Defendants' business premises; and (7) requiring any

persons present on the Receivership Defendants' business premises at the time this order is served to vacate the premises, to provide the Temporary Receiver with proof of identification, or to demonstrate to the satisfaction of the Temporary Receiver that such persons are not removing from the premises documents or assets of the Defendants. Law enforcement personnel, including but not limited to local police or sheriffs, may assist the Temporary Receiver in implementing these provisions in order to keep the peace and maintain security;

D. To immediately return to consumers, without further court order, any funds that are identifiable as received from specific consumers following the Temporary Receiver's appointment or that are received at the Receivership Defendants' premises or mailboxes or forwarded to the Temporary Receiver after entry of this order and that were, based upon the Temporary Receiver's good faith determination, procured by use of the unfair or deceptive acts or practices alleged in the complaint in this matter. Likewise, upon the Temporary Receiver's appointment, the Temporary Receiver shall take all reasonable steps to halt immediately the debit of consumer bank accounts or charges to consumer credit cards that in the Temporary Receiver's good faith determination were procured by use of the unfair or deceptive acts or practices alleged in the complaint in this matter;

E. 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 Defendants, including but not limited to obtaining an accounting of the assets and preventing transfer, withdrawal, or misapplication of assets;

F. Enter into contracts and purchase insurance as necessary or advisable including but not limited to: (1) the retention and employment of investigators, attorneys, or accountants of the Temporary Receiver's choice, including without limitation members and employees of the Temporary Receiver's firm, to assist, advise, and represent the Temporary Receiver, and (2) the movement and storage of any equipment, furniture, records, files, or other physical property of the Defendants;

G. Prevent the inequitable distribution of the receivership assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with the Defendants;

H. Have the sole legal authority to hire legal counsel on behalf of the Receivership Defendants;

I. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this order. The Temporary Receiver shall apply to this court for prior approval of any payment of any debt or obligation incurred by any Receivership Defendant prior to the date of entry of this order, except payments that the Temporary Receiver deems necessary or advisable to secure assets of the Receivership Defendants, such as rental payments;

J. Institute, prosecute, compromise, adjust, appear in, intervene in, or become a party to such actions or proceedings in state, federal, or foreign courts or arbitration proceedings as the Temporary Receiver deems necessary or advisable to preserve or recover the assets of the Receivership Defendants or that the Temporary Receiver deems necessary and advisable to carry out the Temporary Receiver's mandate under this order;

K. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Temporary Receiver in his role as Temporary Receiver, or against the Receivership Defendants, that the Receiver deems necessary and advisable to preserve the assets of the Receivership Defendants, or as the Temporary Receiver deems necessary and advisable to carry out the Temporary Receiver's mandate under this order;

L. Continue to conduct the business of the Receivership Defendants in such manner, to such extent, and for such duration as the Temporary Receiver may in good faith deem necessary or appropriate to operate the businesses profitably and lawfully, if at all; provided that the continuation and conduct of the business shall be conditioned upon the Temporary Receiver's good faith determination that the business can be lawfully operated at a profit using the assets of the receivership estate;

M. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;

N. Open one or more bank accounts as designated depositories for funds of the Receivership Defendants. The Temporary 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;

O. Maintain accurate records of all receipts and expenditures that he makes as Receiver; and

P. Cooperate with reasonable requests for information and assistance from any state or federal law enforcement agency;

Q. Maintain the chain of custody of all of the Defendants' records in his possession pursuant to procedures to be established by the Temporary Receiver in writing with the approval of the Commission; and

R. Prepare and submit a report to this court and to the parties, not less than three days prior to the preliminary injunction hearing, describing the Temporary Receiver's activities in connection with carrying out the Temporary Receiver's obligations and responsibilities under this order, the Receivership Defendants' business activities, sales volume and number of purchasers, and assets and liabilities, to the extent that such information is known to or has been provided to the Temporary Receiver, and any other information the Temporary Receiver believes is relevant to the court.

#### **XVII. COOPERATION WITH THE TEMPORARY RECEIVER**

**IT IS FURTHER ORDERED** that the Defendants and their officers, agents, employees, and corporations, and those persons 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, including but not limited to fictitious business names, shall fully cooperate with and assist the Temporary Receiver. The Defendants' cooperation and assistance shall include but not be limited to providing any information to the Temporary Receiver that the Temporary Receiver deems necessary to exercise the authority and discharge the responsibilities of the Temporary Receiver under this order; providing any password or entry code required to access any computer or electronic file of the Receivership Defendants in any medium; or advising all persons who owe money to the Receivership



Defendants that all debts should be paid directly to the Temporary Receiver. The Defendants are hereby restrained and enjoined from directly or indirectly:

- A. Transacting any of the business of the Receivership Defendants;
- B. Destroying, secreting, defacing, transferring, or otherwise altering or disposing of any documents of the Receivership Defendants, including but not limited to books, records, accounts, or any other papers of any kind or nature;
- 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 Receivership Defendants or the Temporary Receiver;
- D. Excusing debts owed to the Receivership Defendants;
- E. Failing to notify the Temporary Receiver of any asset, including accounts, of the Receivership Defendants held in any name other than the name of such Receivership Defendant, or by any person or entity other than such Receivership Defendant, or failing to provide any assistance or information requested by the Temporary Receiver in connection with obtaining possession, custody, or control of such assets;
- F. Doing any act or refraining from any act whatsoever to interfere with the Temporary Receiver taking custody, control, possession, or managing of the Receivership Defendants' assets or documents; or to harass or interfere with the Temporary 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 Temporary Receiver or the Temporary Receiver's duly authorized agents in the exercise of their duties or authority under this order.

## **XVIII. DELIVERY OF RECEIVERSHIP PROPERTY**

**IT IS FURTHER ORDERED** that immediately upon service of this order upon them, or within a period permitted by the Temporary Receiver, the Defendants and any other person or entity served with a copy of this order shall forthwith or within such time as permitted by the Temporary Receiver in writing, transfer or deliver possession, custody, and control of the following to the Temporary Receiver:

A. All assets and property owned beneficially or otherwise, wherever situated, of the Receivership Defendants;

B. All documents of the Receivership Defendants, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents, and other papers;

C. All assets belonging to members of the public now held by the Receivership Defendants;

D. All keys, computer passwords, entry codes, and combinations to locks necessary to gain or secure access to any assets or documents of the Receivership Defendants, including but not limited to access to their business premises, means of communication, accounts, computer systems, or other property; and

E. Information identifying the accounts, employees, properties, or other assets or obligations of the Receivership Defendants.

If any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Section, the Temporary Receiver may file an affidavit of non-compliance regarding such failure. Upon filing the affidavit, the court may

authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the Temporary Receiver. The writs shall authorize and direct the United States Marshal or any sheriff of any county to seize the asset, document, or other thing and to deliver it to the Temporary Receiver.

### **XIX. STAY OF ACTIONS**

**IT IS FURTHER ORDERED** that:

A. Except by leave of this court, during the pendency of the receivership ordered herein, the Defendants and all vendors, principals, investors, creditors, stockholders, lessors, and all other persons and entities seeking to establish or enforce any claim, right, or interest for, against, or on behalf of, or in the name of, any of the Receivership Defendants, and all others acting for or on behalf of such persons including but not limited to attorneys, trustees, agents, sheriffs, constables, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees are hereby stayed from:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding against any of the Receivership Defendants, except that such actions may be filed to toll any applicable statute of limitations;

2. Commencing, prosecuting, continuing, or entering any suit or proceeding in the name of or on behalf of any of the Receivership Defendants;

3. 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 of the Receivership Defendants; attempting to foreclose, forfeit, alter, or terminate any of the Receivership Defendants' interests in any asset, including without limitation

the establishment, granting, or perfection of any security interest, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

4. Using self-help or executing, issuing, or serving, or causing the execution or 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 for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon, any assets of any of the Receivership Defendants; or

5. Taking any action or doing anything whatsoever to interfere with the exclusive jurisdiction of this court over the assets or documents of the Receivership Defendants or their subsidiaries or affiliates.

B. This action does not stay:

1. The commencement or continuation of a criminal action or proceeding;
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, including execution on any security interest in favor of the Commission;

4. The commencement of any action by the Secretary of the United States Department of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property (or combinations of property) consisting of five or more living units; or

5. The issuance to a Defendant of a notice of tax deficiency.

#### **XX. COMPENSATION OF THE TEMPORARY RECEIVER**

**IT IS FURTHER ORDERED** that the Temporary Receiver is entitled to reasonable compensation for the performance of all duties pursuant to this order and for the cost of actual out-of-pocket expenses incurred, solely from the assets now held by, or in the possession or control of, or which may be received by the Receivership Defendants. The Temporary Receiver shall file with the court and serve on the parties periodic requests for the payment of such compensation, with the first such request due prior to sixty days after the date of this order. The Temporary Receiver shall not increase the Temporary Receiver's fee billed to the receivership estate without prior approval of the court.

#### **XXI. BOND**

**IT IS FURTHER ORDERED** that, within five days after entry of this order, the Temporary Receiver shall file with the Clerk of Court a bond in the sum of \$20,000.00 with sureties to be approved by the court, conditioned that the Temporary Receiver will well and truly perform the duties of the office and abide by and perform all acts that the court directs.

#### **XXII. CONSUMER CREDIT REPORTS**

**IT IS FURTHER ORDERED** that the Commission may obtain credit reports concerning any Individual Defendant pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that upon written request, any credit reporting agency from which such report is requested shall provide it to the Commission.

### **XXIII. USE OF ALIASES**

**IT IS FURTHER ORDERED** that the Defendants are hereby enjoined from using any fictitious, false, or assumed title or name, other than their own proper name, or otherwise misrepresenting their true identities in the course of business dealings or in publicly filed documents.

### **XXIV. SERVICE OF ORDER UPON THIRD-PARTY ASSET HOLDERS**

**IT IS FURTHER ORDERED** that copies of this order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant, or that may otherwise be subject to any provision of this order. Service upon any branch or office of any financial institution or entity shall effect service upon the entire financial institution or entity.

### **XXV. SERVICE OF PLEADINGS**

**IT IS FURTHER ORDERED** that:

A. The Defendants shall file with the Court and serve on counsel for the Commission their response to the order to show cause why a preliminary injunction should not issue, including all declarations, exhibits, memoranda, and other evidence, not less than seventy-two hours before the hearing on the application. The Defendants shall serve copies of all such materials on the Commission by hand, by facsimile transmission, or by overnight delivery service to the attention of counsel for the Commission, Ann F. Weintraub, at Federal Trade Commission, Northeast Regional Office, 1 Bowling Green, Suite 318, New York, NY 10004 (facsimile transmission to (212) 607-2822). However, if the Defendant chooses to serve the Commission via

overnight delivery, the documents shall be delivered so that they shall be received by the Commission at least seventy-two hours before the hearing;

B. Service on the Temporary Receiver shall be performed by delivery to the attention of Rob Evans, Robb Evans & Associates LLC, 11450 Sheldon Street, Sun Valley, California 91352-1121 (facsimile transmission to (818) 768-8802).

C. The Commission shall file with the court and serve on the Defendants any supplemental memoranda, declarations, materials, or other evidence, not less than twenty-four hours before the hearing on the order to show cause why a preliminary injunction should not issue. The Commission shall serve copies of all such materials on counsel for each Defendant by hand, by facsimile transmission, or by overnight delivery service. However, if the Commission chooses to serve the Defendants via overnight delivery, the documents shall be delivered so that they shall be received by such Defendant at least twenty-four hours before the hearing. Consumer declarations previously filed as exhibits in support of the application for this order comply with the disclosure requirements of this paragraph;

D. Pursuant to Rule 4(c), Federal Rules of Civil Procedure, copies of this order and the initial pleadings and papers filed in this matter, including the complaint and summonses, may be served by employees and agents of the Commission, by employees of any state or federal law enforcement agency, including but not limited to the United States Marshal Service and the Federal Bureau of Investigation, and by agents of any process servers retained by the Commission, upon any office of the Defendants, any Individual Defendant, any financial or brokerage institution, or any person or entity that may be in possession of any assets, property, or property rights of the Defendants;

E. Any party who wishes to present live testimony at the hearing in the party's case-in-chief shall file a motion requesting leave to present live testimony, and serve the motion on all opposing parties, not less than seventy-two hours before the hearing on the order to show cause why a preliminary injunction should not issue. The request shall include a witness list stating the name, address, and telephone number of any such witness and either a summary of the witness's expected testimony or the witness's declaration disclosing the substance of the witness's expected testimony. However, if service is via overnight delivery, the documents shall be delivered so that they shall be received by all parties at least seventy-two hours before the hearing.

#### **XXVI. DURATION OF TEMPORARY RESTRAINING ORDER**

**IT IS FURTHER ORDERED** that the temporary restraining order granted herein shall expire at **5:00 p.m. on April 8, 2009**, unless for good cause shown the order is extended for an additional period not to exceed ten days or is otherwise extended pursuant to Rule 65, Federal Rules of Civil Procedure.

#### **XXVII. ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED** that, unless the Magistrate Judge orders otherwise, the parties shall appear on **March 31, 2009, at 11:00 a.m.**, before United States Magistrate Judge Thomas B. McCoun, III, in Courtroom 12B, United States Courthouse, 801 N. Florida Avenue, Tampa, Florida 33602, for a status conference and to schedule a hearing pursuant to Rule 65, Federal Rules of Civil Procedure, at which the Defendants shall show cause why pending a final decision on the merits of the Commission's complaint a preliminary injunction should not issue enjoining the Defendants from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),




continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

**XXVIII. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that the court shall retain jurisdiction over this matter for all purposes.

ORDERED in Tampa, Florida, on March 26, 2009, at 8:53 a.m.



---

STEVEN D. MERRYDAY  
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge