

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Federal Trade Commission, and
State of Ohio ex rel. Attorney General
Dave Yost,

No. 3:19-CV-195

Plaintiffs,

v.

**STIPULATED PRELIMINARY
INJUNCTION ORDER AS TO
MADERA MERCHANT SERVICES,
LLC; B&P ENTERPRISES, LLC;
BRUCE C. WOODS; PATRICIA
WOODS; AND VICTOR RODRIGUEZ**

Madera Merchant Services, LLC, dba E
Check Processing and
echeckprocessing.net, a Texas company,

B&P Enterprises, LLC, a Texas company,

Bruce C. Woods, individually and as an
owner, officer, member, and/or manager of
Madera Merchant Services, LLC and B&P
Enterprises, LLC,

Patricia Woods, individually and as an
owner, manager, and/or member of Madera
Merchant Services, LLC and B&P
Enterprises, LLC,

and

Victor Rodriguez, individually and as an
officer, member, and/or manager of Madera
Merchant Services, LLC and B&P
Enterprises, LLC,

Defendants.

On July 18, 2019, Plaintiffs, Federal Trade Commission (“FTC”) and the State of Ohio (collectively, “Plaintiffs”), filed their Complaint for Permanent Injunction and Other Equitable Relief under Section 13(b) and 19 of the FTC Act, 15 U.S.C. § 53(b), 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.07 (DE 10), and moved, under Fed. R. Civ. P. 65(b), for a temporary restraining

1 order, asset freeze, other equitable relief, and an order to show cause why a preliminary
2 injunction should not issue against Madera Merchant Services, LLC; B&P Enterprises,
3 LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez (collectively, “Defendants”)
4 (DE 8).

5 On July 19, 2019, the Court issued a Temporary Restraining Order with an asset
6 freeze against the defendants and appointed a temporary receiver over Madera Merchant
7 Services, LLC; and B&P Enterprises, LLC and granted the temporary receiver immediate
8 access to the Bruce and Patricia Woods residence – the corporate defendants’ business
9 premise (DE 9).

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11 Plaintiffs and Defendants, acting by and through their respective counsel, have
12 now stipulated to entry of a Preliminary Injunction, to remain in effect until the final
13 resolution of the matter, with the following findings of facts and order provisions:
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15 **FINDINGS OF FACT**

16 A. This Court has jurisdiction over the subject matter of this case, and there is
17 good cause to believe that it will have jurisdiction over all parties hereto and that venue in
18 this district is proper.

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20 B. There is good cause to believe that Defendants have engaged in and are
21 likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C.
22 § 45(a), and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and the CSPA
23 and that the FTC and the State of Ohio are therefore likely to prevail on the merits of this
24 action.
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1 C. Plaintiffs have sufficiently demonstrated that immediate and irreparable
2 harm will result from Defendants’ ongoing violations of Section 5 of the FTC Act, the
3 TSR, and the Ohio CSPA unless they are restrained and enjoined by Order of this Court.

4 D. Good cause exists for permitting Plaintiffs and the Receiver to take
5 expedited discovery.

6 E. Weighing the equities and considering Plaintiffs’ likelihood of ultimate
7 success on the merits, a preliminary injunction order with an asset freeze, a receiver,
8 expedited discovery, and other equitable relief is in the public interest.

9 F. This Court has authority to issue this Order pursuant to Section 13(b) of
10 the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs
11 Act, 28 U.S.C. § 1651.
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13 G. No security is required of any agency of the United States for issuance of a
14 preliminary injunction. Fed. R. Civ. P. 65(c).
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16 **DEFINITIONS**

17 For the purpose of this Order, the following definitions shall apply:

18 A. **“Consumer Transaction”** means a sale, lease, assignment, award by
19 chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an
20 individual for purposes that are primarily personal, family, or household, or solicitation to
21 supply any of these things.
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23 B. **“Corporate Defendants”** means Madera Merchant Services, LLC, B&P
24 Enterprises, LLC, and each of their subsidiaries, affiliates, successors, and assigns.
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26 C. **“Defendants”** means the Corporate Defendants and the Individual
27 Defendants, individually, collectively, or in any combination.
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1 D. **“Document”** is synonymous in meaning and equal in scope to the usage of
2 “document” and “electronically stored information” in Federal Rule of Civil Procedure
3 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs,
4 sound and video recordings, images, Internet sites, web pages, websites, electronic
5 correspondence, including e-mail and instant messages, contracts, accounting data,
6 advertisements, FTP Logs, Server Access Logs, books, written or printed records,
7 handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and
8 business canceled checks and check registers, bank statements, appointment books,
9 computer records, customer or sales databases and any other electronically stored
10 information, including Documents located on remote servers or cloud computing
11 systems, and other data or data compilations from which information can be obtained
12 directly or, if necessary, after translation into a reasonably usable form. A draft or non-
13 identical copy is a separate Document within the meaning of the term.
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16 E. **“Electronic Data Host”** means any Person in the business of storing,
17 hosting, or otherwise maintaining electronically stored information. This includes, but is
18 not limited to, any entity hosting a website or server, and any entity providing “cloud
19 based” electronic storage.
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21 F. **“Individual Defendants”** means Bruce Woods, Patricia Woods, and
22 Victor Rodriguez, individually, collectively, or in any combination.

23 G. **“Payment Processing”** means providing a Person, directly or indirectly,
24 with means or service used to charge or debit financial accounts through the use of any
25 payment method or mechanism, including, but not limited to, credit cards, debit cards,
26 prepaid cards, stored value cards, Automated Clearing House (ACH) Debits, Remotely
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1 Created Payment Orders, and Remotely Created Checks. Whether accomplished through
2 the use of software or otherwise, Payment Processing includes, among other things: (a)
3 reviewing and approving merchant applications for payment processing services; (b)
4 providing the means to transmit sales transaction data from third-party merchants to
5 banks, credit unions, Payment Processors, independent sales organizations, payment
6 facilitators or other financial institutions; (c) clearing, settling, or distributing proceeds of
7 sales transactions from banks, credit unions, or other financial institutions to third-party
8 merchants; or (d) processing chargebacks or returned Remotely Created Payment Orders,
9 checks or Automated Clearing House (ACH) transactions on behalf of third-party
10 merchants.
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13 H. **“Payment Processor”** means any Person providing Payment Processing
14 services in connection with another Person’s sale of goods or services, or in connection
15 with any charitable donation.

16 I. **“Person”** means any natural person or any entity, corporation, partnership,
17 or association of persons.

18 J. **“Remotely Created Payment Order”** or **“RCPO”** means a payment
19 instruction or order, whether created in electronic or paper format, drawn on a payor’s
20 account that is initiated or created by or on behalf of the payee, and which is deposited
21 into or cleared through the check clearing system. For purposes of this definition, an
22 account includes any financial account or credit or other arrangement that allows checks,
23 payment instructions, or orders to be drawn against it that are payable by, through, or at a
24 bank.
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1 K. **“Receiver”** means the receiver appointed in Section X of this Order and
2 any deputy receivers that shall be named by the receiver.

3 L. **“Receivership Entities”** means the Corporate Defendants as well as any
4 other entity that has conducted any business related to the Defendants’ RCPO payment
5 processing scheme, including receipt of assets or funds derived from any activity that is
6 the subject of the Complaint in this matter, and that the Receiver determines is controlled
7 or owned by any Defendant.
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9 M. **“Seller”** means any Person who, in connection with a Telemarketing
10 transaction, provides, offers to provide, or arranges for others to provide goods or
11 services to a customers in exchange for consideration.
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13 N. **“Telemarketer”** means any Person who, in connection with
14 Telemarketing, initiates or receives telephone calls to or from a customer or donor.

15 O. **“Telemarketing”** means any plan, program, or campaign that is
16 conducted to induce the purchase of goods or services or a charitable contribution by use
17 of one or more telephones.
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19 **ORDER**

20 **I. PROHIBITION REGARDING PAYMENT PROCESSING**

21 **IT IS THEREFORE ORDERED** that Defendants, Defendants’ officers, agents,
22 employees, and attorneys, and all other Persons in active concert or participation with
23 them, who receive actual notice of this Order by personal service or otherwise, whether
24 acting directly or indirectly, are restrained and enjoined from Payment Processing.
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II. PROHIBITIONS ON VIOLATING THE TSR

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, are restrained and enjoined from violating any provision of the TSR, 16 C.F.R. Part 310, attached as Attachment A.

III. PROHIBITIONS ON VIOLATING THE OHIO CSPA

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Consumer Transactions, are restrained and enjoined from engaging in unfair or deceptive acts or practices in violation of the Ohio CSPA, R.C. 1345.02.

IV. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

- A. Selling, renting, leasing, transferring, or otherwise disclosing, the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any

1 person that any Defendant obtained in connection with any activity that pertains to the
2 subject matter of this Order; and

3 B. Benefitting from or using the name, address, birth date, telephone number,
4 email address, credit card number, bank account number, Social Security number, or
5 other financial or identifying information of any person that any Defendant obtained in
6 connection with any activity that pertains to the subject matter of this Order.
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8 Provided, however, that Defendants may disclose such identifying information to
9 a law enforcement agency, to their attorneys as required for their defense, as required by
10 any law, regulation, or court order, or in any filings, pleadings or discovery in this action
11 in the manner required by the Federal Rules of Civil Procedure and by any protective
12 order in the case.
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14 **V. ASSET FREEZE**

15 **IT IS FURTHER ORDERED** that Defendants and Defendants' officers, agents,
16 employees, and attorneys, and all other Persons in active concert or participation with any
17 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
18 hereby restrained and enjoined from:
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20 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
21 selling, concealing, dissipating, disbursing, assigning, relinquishing, spending,
22 withdrawing, granting a lien or security interest or other interest in, or otherwise
23 disposing of any assets that as of July 19, 2019, were:
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- 25 1. owned or controlled, directly or indirectly, by any Defendant;
 - 26 2. held, in part or in whole, for the benefit of any Defendant;
 - 27 3. in the actual or constructive possession of any Defendant; or
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4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant.

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant or subject to access by any Defendant, except as necessary to comply with written requests from the Receiver acting pursuant to its authority under this Order;

C. Incurring charges or cash advances on any credit, debit, or ATM card issued 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 Defendant or of which any Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which any Defendant is, or was on the date that this Order was signed, an authorized signor; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of any Defendant.

The assets covered by this Section and Section VI shall include: (1) all assets of Defendants as of July 19, 2019; and (2) assets obtained by Defendants after July 19, 2019, if those assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfer of assets to the Receiver or repatriation of assets specifically required by this Order, and does not freeze JPMorgan Bank account X2365.

1 **VI. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES**

2 **IT IS FURTHER ORDERED** that any financial or brokerage institution,
3 Electronic Data Host, credit card processor, Payment Processor, merchant bank,
4 acquiring bank, independent sales organization, third party processor, payment gateway,
5 insurance company, business entity, or Person who receives actual notice of this Order
6 (by service or otherwise) that:
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8 (a) has held, controlled, or maintained custody, through an account or
9 otherwise, of any Document on behalf of any Defendant or any asset that has been
10 owned or controlled, directly or indirectly, by any Defendant; held, in part or in
11 whole, for the benefit of any Defendant; in the actual or constructive possession of
12 any Defendant; or owned or controlled by, in the actual or constructive possession of,
13 or otherwise held for the benefit of, any corporation, partnership, asset protection
14 trust, or other entity that is directly or indirectly owned, managed or controlled by any
15 Defendant;
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17 (b) has held, controlled, or maintained custody, through an account or
18 otherwise, of any Document or asset associated with credits, debits, or charges made
19 on behalf of any Defendant, including reserve funds held by payment processors,
20 credit card processors, merchant banks, acquiring banks, independent sales
21 organizations, third party processors, payment gateways, insurance companies, or
22 other entities; or
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24 (c) has extended credit to any Defendant, including through a credit card
25 account, shall:
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1 A. Hold, preserve, and retain within its control and prohibit the withdrawal,
2 removal, alteration, assignment, transfer, pledge, encumbrance, disbursement,
3 dissipation, relinquishment, conversion, sale, or other disposal of any such Document or
4 asset, as well as all Documents or other property related to such assets, except by further
5 order of this Court; provided, however, that this provision does not prohibit an individual
6 defendant from incurring charges on a personal credit card established prior to entry of
7 this Order, up to the pre-existing credit limit;

9 B. Deny any Person, except the Receiver, access to any safe deposit box,
10 commercial mail box, or storage facility that is titled in the name of any Defendant, either
11 individually or jointly, or otherwise subject to access by any Defendant;

12 C. Provide Plaintiffs' counsel and the Receiver, within three (3) days of
13 receiving a copy of this Order, a sworn statement setting forth, for each asset or account
14 covered by this Section:

- 16 1. The identification number of each such account or asset;
- 17 2. The balance of each such account, or a description of the nature and
18 value of each such asset as of the close of business on the day on
19 which this Order is served, and, if the account or other asset has been
20 closed or removed, the date closed or removed, the total funds
21 removed in order to close the account, and the name of the Person
22 whom such account or other asset was remitted; and
- 23 3. The identification of any safe deposit box, commercial mail box, or
24 storage facility that is either titled in the name, individually or jointly,
25 storage facility that is either titled in the name, individually or jointly,
26 storage facility that is either titled in the name, individually or jointly,
27 storage facility that is either titled in the name, individually or jointly,
28 storage facility that is either titled in the name, individually or jointly,

1 of any Defendant, or is otherwise subject to access by any Defendant;
2 and

3 D. Upon the request of Plaintiffs' counsel or the Receiver, promptly provide
4 Plaintiffs' counsel and the Receiver with copies of all records or other Documents
5 pertaining to any account covered by this Section or asset, including originals or copies
6 of account applications, account statements, signature cards, checks, drafts, deposit
7 tickets, transfers to and from the accounts, including wire transfers and wire transfer
8 instructions, all other debit and credit instruments or slips, currency transaction reports,
9 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail
10 boxes, and storage facilities.
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12 This Section does not prohibit any transfer of assets to the Receiver or repatriation
13 of assets specifically required by this Order.
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15 **VII. CONSUMER CREDIT REPORTS**

16 **IT IS FURTHER ORDERED** that Plaintiffs may obtain credit reports
17 concerning any Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting
18 Act, 15 U.S.C. 1681b(a)(1), and that, upon written request, any credit reporting agency
19 from which such reports are requested shall provide them to Plaintiffs.
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21 **VIII. PRESERVATION OF RECORDS**

22 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents,
23 employees, and attorneys, and all other Persons in active concert or participation with any
24 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
25 hereby restrained and enjoined from:
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1 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,
2 altering, transferring, or otherwise disposing of, in any manner, directly or indirectly,
3 Documents that relate to: (1) the business, business practices, assets, or business or
4 personal finances of any Defendant; (2) the business practices or finances of entities
5 directly or indirectly under the control of any Defendant; or (3) the business practices or
6 finances of entities directly or indirectly under common control with any other
7 Defendant; and

9 B. Failing to create and maintain Documents that, in reasonable detail,
10 accurately, fairly, and completely reflect Defendants' incomes, disbursements,
11 transactions, and use of Defendants' assets.

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13 **IX REPORT OF NEW BUSINESS ACTIVITY**

14 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents,
15 employees, and attorneys, and all other Persons in active concert or participation with any
16 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
17 hereby restrained and enjoined from creating, operating, or exercising any control over
18 any business entity, whether newly formed or previously inactive, including any
19 partnership, limited partnership, joint venture, sole proprietorship, or corporation, without
20 first providing Plaintiffs' counsel and the Receiver with a written statement disclosing:
21 (1) the name of the business entity; (2) the address and telephone number of the business
22 entity; (3) the names of the business entity's officers, directors, principals, managers, and
23 employees; and (4) a detailed description of the business entity's intended activities.
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X. APPOINTMENT OF RECEIVER

IT IS FURTHER ORDERED that Susan M. Forbes is appointed as receiver of the Receivership Entities with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

XI. DUTIES AND AUTHORITY OF RECEIVER

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

A. Assume full control of Receivership Entities by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Receivership Entity from control of, management of, or participation in, the affairs of the Receivership Entity;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Receivership Entity, wherever situated;

C. Take exclusive custody, control, and possession of all Documents or assets associated with credits, debits, or charges made on behalf of any Receivership Entity, wherever situated, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities;

D. Conserve, hold, manage, and prevent the loss of all assets of the Receivership Entities, and perform all acts necessary or advisable to preserve the value of those assets. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to the Receivership Entities. The

1 Receiver shall have full power to sue for, collect, and receive, all assets of the
2 Receivership Entities and of other Persons whose interests are now under the direction,
3 possession, custody, or control of, the Receivership Entities. Provided, however, that the
4 Receiver shall not attempt to collect any amount from a consumer if the Receiver
5 believes the consumer's debt to the Receivership Entities has resulted from the deceptive
6 acts or practices or other violations of law alleged in the Complaint in this matter, without
7 prior Court approval;
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9 E. Obtain, conserve, hold, manage, and prevent the loss of all Documents of
10 the Receivership Entities, and perform all acts necessary or advisable to preserve such
11 Documents. The Receiver shall: divert mail; preserve all Documents of the Receivership
12 Entities that are accessible via electronic means (such as online access to financial
13 accounts and access to electronic Documents held onsite or by Electronic Data Hosts, by
14 changing usernames, passwords or other log-in credentials); take possession of all
15 electronic Documents of the Receivership Entities stored onsite or remotely; take
16 whatever steps necessary to preserve all such Documents; and obtain the assistance of the
17 FTC's Digital Forensic Unit for the purpose of obtaining electronic Documents stored
18 onsite or remotely.
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21 F. Choose, engage, and employ attorneys, accountants, appraisers, and other
22 independent contractors and technical specialists, as the Receiver deems advisable or
23 necessary in the performance of duties and responsibilities under the authority granted by
24 this Order;
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26 G. Make payments and disbursements from the receivership estate that are
27 necessary or advisable for carrying out the directions of, or exercising the authority
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1 granted by, this Order, and to incur, or authorize the making of, such agreements as may
2 be necessary and advisable in discharging his or her duties as Receiver. The Receiver
3 shall apply to the Court for prior approval of any payment of any debt or obligation
4 incurred by the Receivership Entities prior to the date of entry of this Order, except
5 payments that the Receiver deems necessary or advisable to secure assets of the
6 Receivership Entities, such as rental payments for business premises?;

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8 H. Take all steps necessary to secure and take exclusive custody of each non-
9 residential location from which the Receivership Entities operate their businesses. Such
10 steps may include, but are not limited to, any of the following, as the Receiver deems
11 necessary or advisable: (1) securing the location by changing the locks and alarm codes
12 and disconnecting any internet access or other means of access to the computers, servers,
13 internal networks, or other records maintained at that location; and (2) requiring any
14 persons present at the location to leave the premises, to provide the Receiver with proof
15 of identification, and/or to demonstrate to the satisfaction of the Receiver that such
16 persons are not removing from the premises Documents or assets of the Receivership
17 Entities. Law enforcement personnel, including, but not limited to, police or sheriffs,
18 may assist the Receiver in implementing these provisions in order to keep the peace and
19 maintain security. If requested by the Receiver, the United States Marshal will provide
20 appropriate and necessary assistance to the Receiver to implement this Order and is
21 authorized to use any necessary and reasonable force to do so;

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24 I. Take all steps necessary to prevent the modification, destruction, or
25 erasure of any web page or website registered to and operated, in whole or in part, by any
26 Defendants, including echeckprocessing.net, and to provide access to all such web page
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1 or websites to Plaintiffs' representatives, agents, and assistants, as well as Defendants and
2 their representatives;

3 J. Enter into and cancel contracts and purchase insurance as advisable or
4 necessary;

5 K. Prevent the inequitable distribution of assets and determine, adjust, and
6 protect the interests of consumers who have transacted business with the Receivership
7 Entities;

8 L. Make an accounting, as soon as practicable, of the assets and financial
9 condition of the receivership and file the accounting with the Court and deliver copies
10 thereof to all parties;

11 M. Institute, compromise, adjust, appear in, intervene in, defend, dispose of,
12 or otherwise become party to any legal action in state, federal or foreign courts or
13 arbitration proceedings as the Receiver deems necessary and advisable to preserve or
14 recover the assets of the Receivership Entities, or to carry out the Receiver's mandate
15 under this Order, including but not limited to, actions challenging fraudulent or voidable
16 transfers;

17 N. Issue subpoenas to obtain Documents and records pertaining to the
18 Receivership, and conduct discovery in this action on behalf of the receivership estate, in
19 addition to obtaining other discovery as set forth in this Order;

20 O. Open one or more bank accounts at designated depositories for funds of
21 the Receivership Entities. The Receiver shall deposit all funds of the Receivership
22 Entities in such designated accounts and shall make all payments and disbursements from
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1 the receivership estate from such accounts. The Receiver shall serve copies of monthly
2 account statements on all parties;

3 P. Maintain accurate records of all receipts and expenditures incurred as
4 Receiver;

5 Q. Allow the Plaintiffs' representatives, agents, and assistants, as well as
6 Defendants and their representatives, reasonable access to all Documents in the
7 possession, custody, or control of the Receivership Entities. The purpose of this access
8 shall be to inspect and copy any and all books, records, Documents, accounts, and other
9 property owned by, or in the possession of, the Receivership Entities or their agents. The
10 Receiver shall have the discretion to determine the time, manner, and reasonable
11 conditions of such access;
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13 R. Cooperate with reasonable requests for information or assistance from any
14 state or federal civil or criminal law enforcement agency;

15 S. Suspend business operations of the Receivership Entities if in the
16 judgment of the Receiver such operations cannot be continued legally and profitably;
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18 T. If the Receiver identifies a nonparty entity as a Receivership Entity,
19 promptly notify the entity as well as the parties, and inform the entity that it can
20 challenge the Receiver's determination by filing a motion with the Court. Provided,
21 however, that the Receiver may delay providing such notice until the Receiver has
22 established control of the nonparty entity and its assets and records, if the Receiver
23 determines that notice to the entity or the parties before the Receiver establishes control
24 over the entity may result in the destruction of records, dissipation of assets, or any other
25 obstruction of the Receiver's control of the entity; and
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1 U. If in the Receiver's judgment the business operations cannot be continued
2 legally and profitably, take all steps necessary to ensure that any of the Receivership
3 Entities' web pages or websites relating to the activities alleged in the Complaint,
4 including **echeckprocessing.net**, cannot be accessed by the public, or are modified for
5 consumer education and/or informational purposes, and take all steps necessary to ensure
6 that any telephone numbers associated with the Receivership Entities cannot be accessed
7 by the public, or are answered solely to provide consumer education or information
8 regarding the status of operations.
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10 **XII. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

11 **IT IS FURTHER ORDERED** that Defendants and any other Person, with
12 possession, custody or control of property of, or records relating to, the Receivership
13 Entities shall, upon notice of this Order by personal service or otherwise, fully cooperate
14 with and assist the Receiver in taking and maintaining possession, custody, or control of
15 the assets and Documents of the Receivership Entities and immediately transfer or deliver
16 to the Receiver possession, custody, and control of, the following:
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18 A. All assets held by or for the benefit of the Receivership Entities;

19 B. All Documents or assets associated with credits, debits, or charges made
20 on behalf of any Receivership Entity, wherever situated, including reserve funds held by
21 payment processors, credit card processors, merchant banks, acquiring banks,
22 independent sales organizations, third party processors, payment gateways, insurance
23 companies, or other entities;
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25 C. All Documents of or pertaining to the Receivership Entities;
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1 D. All computers, electronic devices, mobile devices and machines used to
2 conduct the business of the Receivership Entities;

3 E. All assets and Documents belonging to other Persons whose interests are
4 under the direction, possession, custody, or control of the Receivership Entities; and

5 F. All keys, codes, user names and passwords necessary to gain or to secure
6 access to any assets or Documents of or pertaining to the Receivership Entities, including
7 access to their business premises, means of communication, accounts, computer systems
8 (onsite and remote), Electronic Data Hosts, or other property.

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10 In the event that any Person or entity fails to deliver or transfer any asset or
11 Document, or otherwise fails to comply with any provision of this Section, the Receiver
12 may file an Affidavit of Non-Compliance regarding the failure and a motion seeking
13 compliance or a contempt citation.
14

15 **XIII. COOPERATION WITH THE RECEIVER**

16 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;
17 Defendants' or Receivership Entities' officers, agents, employees, and attorneys, all other
18 Persons in active concert or participation with any of them, and any other Person with
19 possession, custody, or control of property of or records relating to the Receivership
20 entities who receive actual notice of this Order shall fully cooperate with and assist the
21 Receiver. This cooperation and assistance shall include, but is not limited to, providing
22 information to the Receiver that the Receiver deems necessary to exercise the authority
23 and discharge the responsibilities of the Receiver under this Order; providing any keys,
24 codes, user names and passwords required to access any computers, electronic devices,
25 mobile devices, and machines (onsite or remotely) and any cloud account (including
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1 specific method to access account) or electronic file in any medium; advising all Persons
2 who owe money to any Receivership Entity that all debts should be paid directly to the
3 Receiver; and transferring funds at the Receiver's direction and producing records related
4 to the assets and sales of the Receivership Entities.

5 **XIV. NON-INTERFERENCE WITH THE RECEIVER**

6 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;
7 Defendants' or Receivership Entities' officers, agents, employees, attorneys, and all other
8 Persons in active concert or participation with any of them, who receive actual notice of
9 this Order, and any other Person served with a copy of this Order, are hereby restrained
10 and enjoined from directly or indirectly:
11

12 A. Interfering with the Receiver's efforts to manage, or take custody, control,
13 or possession of, the assets or Documents subject to the receivership;
14

15 B. Transacting any of the business of the Receivership Entities;

16 C. Transferring, receiving, altering, selling, encumbering, pledging,
17 assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the
18 possession or custody of, or in which an interest is held or claimed by, the Receivership
19 Entities; or
20

21 D. Refusing to cooperate with the Receiver or the Receiver's duly authorized
22 agents in the exercise of their duties or authority under any order of this Court.
23

24 **XV. STAY OF ACTIONS**

25 **IT IS FURTHER ORDERED** that, except by leave of this Court, during the
26 pendency of the receivership ordered herein, Defendants, Defendants' officers, agents,
27 employees, attorneys, and all other Persons in active concert or participation with any of
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1 them, who receive actual notice of this Order, and their corporations, subsidiaries,
2 divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers and
3 other Persons seeking to establish or enforce any claim, right, or interest against or on
4 behalf of Defendants, and all others acting for or on behalf of such Persons, are hereby
5 enjoined from taking action that would interfere with the exclusive jurisdiction of this
6 Court over the assets or Documents of the Receivership Entities, including, but not
7 limited to:

9 A. Filing or assisting in the filing of a petition for relief under the Bankruptcy
10 Code, 11 U.S.C. § 101 *et seq.*, or of any similar insolvency proceeding on behalf of the
11 Receivership Entities;

12 B. Commencing, prosecuting, or continuing a judicial, administrative, or
13 other action or proceeding against the Receivership Entities, including the issuance or
14 employment of process against the Receivership Entities, except that such actions may be
15 commenced if necessary to toll any applicable statute of limitations;

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

21 Provided, however, that this Order does not stay: (1) the commencement or
22 continuation of a criminal action or proceeding; (2) the commencement or continuation of
23 an action or proceeding by a governmental unit to enforce such governmental unit's
24 police or regulatory power; or (3) the enforcement of a judgment, other than a money
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1 judgment, obtained in an action or proceeding by a governmental unit to enforce such
2 governmental unit's police or regulatory power.

3 **XVI. COMPENSATION OF RECEIVER**

4 **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by the
5 Receiver as herein authorized, including counsel to the Receiver and accountants, are
6 entitled to reasonable compensation for the performance of duties pursuant to this Order
7 and for the cost of actual out-of-pocket expenses incurred by them, from the assets now
8 held by, in the possession or control of, or which may be received by, the Receivership
9 Entities. The Receiver shall file with the Court and serve on the parties periodic requests
10 for the payment of such reasonable compensation, with the first such request filed no
11 more than sixty (60) days after the date of entry of this Order. The Receiver shall not
12 increase the hourly rates used as the bases for such fee applications without prior
13 approval of the Court.
14
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16 **XVII. RECEIVER'S BOND**

17 **IT IS FURTHER ORDERED** that the Receiver's \$10,000 bond, filed with the
18 Clerk of the Court on July 22, 2019, shall be maintained with sureties to be approved by
19 the Court, conditioned that the Receiver will well and truly perform the duties of the
20 office and abide by and perform all acts the Court directs. 28 U.S.C. § 754.
21

22 **XVIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

23 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy
24 of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign,
25 member, officer, director, employee, agent, independent contractor, client, attorney,
26 spouse, subsidiary, division, and representative of any Defendant, and shall, within ten
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1 (10) days from the date of entry of this Order, provide Plaintiffs and the Receiver with a
2 sworn statement that this provision of the Order has been satisfied, which statement shall
3 include the names, physical addresses, phone number, and email addresses of each such
4 Person who received a copy of the Order. Furthermore, Defendants shall not take any
5 action that would encourage officers, agents, members, directors, employees,
6 salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors,
7 assigns or other Persons in active concert or participation with them to disregard this
8 Order or believe that they are not bound by its provisions.

10 **XIX. EXPEDITED DISCOVERY**

11 **IT IS FURTHER ORDERED** that, notwithstanding the provisions of the Fed. R.
12 Civ. P. 26(d) and (f) and 30(a)(2)(A)(iii), and pursuant to Fed. R. Civ. P. 30(a), 34, and
13 45, Plaintiffs and the Receiver are granted leave, at any time after service of this Order, to
14 conduct limited expedited discovery for the purpose of discovering: (1) the nature,
15 location, status, and extent of Defendants' assets; (2) the nature, location, and extent of
16 Defendants' business transactions and operations; (3) Documents reflecting Defendants'
17 business transactions and operations; or (4) compliance with this Order. The limited
18 expedited discovery set forth in this Section shall proceed as follows:
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21 A. Plaintiffs and the Receiver may take the deposition of parties and non-
22 parties. Forty-eight (48) hours' notice shall be sufficient notice for such depositions. The
23 limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the Federal
24 Rules of Civil Procedure regarding subsequent depositions of an individual shall not
25 apply to depositions taken pursuant to this Section. Any such deposition taken pursuant
26 to this Section shall not be counted towards the deposition limit set forth in Rules
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1 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone or other remote
2 electronic means;

3 B. Plaintiffs and the Receiver may serve upon parties requests for production
4 of Documents or inspection that require production or inspection within five (5) days of
5 service, provided, however, that three (3) days of notice shall be deemed sufficient for the
6 production of any such Documents that are maintained or stored only in an electronic
7 format.
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9 C. Plaintiffs and the Receiver may serve upon parties interrogatories that
10 require response within five (5) days after Plaintiffs serves such interrogatories;
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12 D. The Plaintiffs and the Receiver may serve subpoenas upon non-parties that
13 direct production or inspection within five (5) days of service.

14 E. Service of discovery upon a party to this action, taken pursuant to this
15 Section, shall be sufficient if made by facsimile, email, or by overnight delivery.

16 F. Any expedited discovery taken pursuant to this Section is in addition to,
17 and is not subject to, the limits on discovery set forth in the Federal Rules of Civil
18 Procedure and the Local Rules of this Court. The expedited discovery permitted by this
19 Section does not require a meeting or conference of the parties, pursuant to Rules 26(d) &
20 (f) of the Federal Rules of Civil Procedure.
21

22 G. The Parties are exempted from making initial disclosures under Fed. R.
23 Civ. P. 26(a)(1) until further order of this Court.
24

25 **XX. SERVICE OF THIS ORDER**

26 **IT IS FURTHER ORDERED** that copies of this Order may be served by any
27 means, including facsimile transmission, electronic mail or other electronic messaging,
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1 personal or overnight delivery, U.S. Mail or FedEx, by agents and employees of
2 Plaintiffs, by any law enforcement agency, or by private process server, upon any
3 Defendant or any Person (including any financial institution) that may have possession,
4 custody or control of any asset or Document of any Defendant, or that may be subject to
5 any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil
6 Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or
7 office of any entity shall effect service upon the entire entity.
8

9 **XXI. CORRESPONDENCE AND SERVICE ON PLAINTIFFS**

10 **IT IS FURTHER ORDERED** that, for the purpose of this Order, all
11 correspondence and service of pleadings on Plaintiffs shall be addressed to:
12

13 J. Ronald Brooke, Jr.
14 Christopher E. Brown
15 Federal Trade Commission
16 600 Pennsylvania Avenue, NW (CC-8528)
17 Washington, DC 20580
18 Fax: 202-326-3395
19 Email: jbrooke@ftc.gov; cbrown3@ftc.gov


20 Erin B. Leahy
21 Ohio Attorney General's Office
22 Consumer Protection Section
23 30 E. Broad Street, 14th Floor
24 Columbus, Ohio 43215
25 Fax: 866-768-2648
26 Email: erin.leahy@OhioAttorneyGeneral.gov
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XXII. RETENTION OF JURISDICTION

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

SO ORDERED, this 4th day of November, 2019.


KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE