

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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FEDERAL TRADE COMMISSION,

Plaintiff,

v.

OLEG OKS, a/k/a Oleg A. Oks and Oleg Alex Oks,  
individually and as an officer  
of the corporate defendants;

ALEKSANDR OKS,  
individually and as an officer  
of the corporate defendants;

PHILIP NEMIROVSKY,  
individually and as an officer  
of the corporate defendants;

BORIS PEKAR,  
individually and as an officer  
of the corporate defendants; and

1530605 ONTARIO INC., also d/b/a Pacific Liberty;

1559927 ONTARIO INC., also d/b/a Pacific Liberty  
Group and Pacific Liberty Liberty W Group;

1565205 ONTARIO INC., also d/b/a Pacific Liberty and  
Pacific Liberty Liberty W;

1585392 ONTARIO INC., also d/b/a Liberty Wide  
Info Services, Liberty Wide Info Services Group,  
Liberty Wide Services, and Liberty Wide;

1620142 ONTARIO INC., also d/b/a Liberty Sun Info  
Services and Liberty Sun Info;

1619264 ONTARIO INC., also d/b/a C & B  
Communications Group;

1629930 ONTARIO INC., also d/b/a Atlantic One Info  
Services Grp and Atlantic One Info Services Group;

1485635 ONTARIO INC. (dissolved), also d/b/a  
Nationwide Credit Service Inc., Nation Wide  
Information Services Group Inc., and Nationwide  
Information Services,  
Ontario, Canada corporations,

Defendants.

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Civil Action No. 05 C 5389

Judge Ronald Guzman

Magistrate Judge Ashman

**[PROPOSED] TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE  
AND ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD  
NOT ISSUE**

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101, *et seq.*, and having moved *ex parte* for a Temporary Restraining Order and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the complaint, declarations, exhibits, and memorandum of law filed in support thereof, and now, being advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of this case and over the parties;
2. Venue properly lies with this Court;
3. There is good cause to believe that the Defendants have engaged in, and are likely to engage in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Telemarketing Act, 15 U.S.C. §§ 6101 *et seq.*, the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (the “Rule” or “TSR”), 16 C.F.R. Part 310, and that the Commission is therefore likely to prevail on the merits of this action;
4. There is good cause to believe that immediate and irreparable harm will result from Defendants’ ongoing violations of Section 5(a) of the FTC Act unless Defendants are restrained and enjoined by order of this Court;

5. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets or records unless Defendants are immediately restrained and enjoined by order of this Court. Therefore, there is good cause for relieving the Commission of the duty to provide Defendants with prior notice of the Commission's motion and for the entry of the ancillary relief contained in this Order, including freezing the Defendants' assets and prohibiting the Defendants from destroying records;

6. There is good cause for issuing this Order pursuant to Fed. R. Civ. P. 65(b);

7. Weighing the equities and considering the Commission's likelihood of ultimate success, a Temporary Restraining Order with asset freeze and other equitable relief is in the public interest; and

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

#### **DEFINITIONS**

1. "Plaintiff" means the Federal Trade Commission.

2. "Defendant" or "Defendants" means Oleg Oks, Aleksandr Oks, Philip Nemirovsky, Boris Pekar, individually, and as officers of the corporate defendants; 1530605 Ontario Inc., also d/b/a Pacific Liberty; 1559927 Ontario Inc., also d/b/a Pacific Liberty Group and Pacific Liberty Liberty W Group; 1565205 Ontario Inc., also d/b/a Pacific Liberty and Pacific Liberty Liberty W; 1585392 Ontario Inc., also d/b/a Liberty Wide Info Services, Liberty Wide Info Services Group, Liberty Wide Services, and Liberty Wide; 1620142 Ontario Inc., also

d/b/a Liberty Sun Info Services and Liberty Sun Info; 1619264 Ontario Inc., also d/b/a C & B Communications Group; 1629930 Ontario Inc., also d/b/a Atlantic One Info Services Grp and Atlantic One Info Services Group; 1485635 Ontario Inc. (dissolved), also d/b/a Nationwide Credit Service Inc., Nation Wide Information Services Group Inc., and Nationwide Information Services.

3. “Asset” or “assets” means any legal or equitable interest in, right to, or claim to, any real and personal property of any Defendant, or held for the benefit of any Defendant, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” “notes” (as these terms are defined in the Uniform Commercial Code), chattels, leaseholds, contracts, mails or other deliveries, shares of stock, lists of consumer names, accounts, credits, receivables, funds, monies, and all cash, wherever located.

4. “Assisting others” means: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any sales script or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing services of any kind.

5. “Credit-related products, programs, or services” means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any extension of credit or credit device, including, but not limited to, credit cards, loans, or financing, or as a method to consolidate or liquidate debts.

6. “Customer” means any person who has paid or may be required to pay for goods or services.

7. “Document” or “documents” means any materials listed in Fed. R. Civ. P. 34(a) and includes 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, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate document within the meaning of the term.

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

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

10. “Person” or “persons” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

11. “Telemarketing” means any plan, program or campaign, whether or not covered by the TSR, 16 C.F.R. Part 310, that is conducted to induce the purchase of goods or services or the payment of money by means of the use of one or more telephones.

## I.

### **PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether

acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Misrepresenting, directly or by implication, that Defendants will provide consumers with, or arrange for consumers to receive, a major credit card, such as a MasterCard or Visa;

B. Misrepresenting, directly or by implication, Defendants' ability to provide consumers with any credit-related product, program, or service;

C. Misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any product, program or service;

D. Violating or assisting others to violate any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, *et seq.*, including, but not limited to:

1. Violating Section 310.3(a)(2) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2), by misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer, 16 C.F.R. § 310.3(a)(2)(iii); and

2. Violating Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4), by requesting or receiving payment of any fee or consideration in advance of obtaining or arranging an extension of credit when they have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit; and

E. Assisting others who violate any provision of Subsections A through D of this Section.

## II.

### ASSET FREEZE

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, except as stipulated by the parties, or as directed by further order of the Court, are hereby restrained and enjoined from:

A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any funds, property, artwork, coins, precious metals, jewelry, contracts, shares of stock, or other assets, wherever located, that are (1) owned, controlled, or held, in whole or in part, for the benefit of, or subject to access, by any Defendant; (2) in the actual or constructive possession of any Defendant; or (3) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant, including, but not limited to, any assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any

credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution of any kind either within or outside the United States;

B. Opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing Plaintiff prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section;

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

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

Notwithstanding the asset freeze provisions of Subsections II. A - D above, Defendants Oleg Oks, Aleksandr Oks, Philip Nemirovsky, and Boris Pekar may pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses, upon compliance with Section IV and subject to prior written agreement with Plaintiff, .

The assets affected by this Section shall include both existing assets and assets acquired after the issuance of this Order.

### **III.**

#### **MAINTAIN RECORDS AND REPORT NEW BUSINESS ACTIVITY**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, all other persons or entities in active concert or participation



with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipt ledgers, and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of Defendants;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any books, records, tapes, discs, accounting data, checks (fronts and backs), correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form (such as electronic mail), in their possession, custody or control; and

C. Creating, operating, or exercising any control over any new business entity, including any partnership, sole proprietorship, or corporation, without first providing Plaintiff 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.

**IV.**

**FINANCIAL STATEMENTS**

**IT IS FURTHER ORDERED** that each Defendant shall serve upon counsel for the Commission, no later than five (5) business days after service of this Order, a completed financial statement and a completed Consent to Release Financial Records, providing Plaintiff with access to Defendants' records and documents held by financial institutions outside the territorial United States, on the forms served with this Order, for such Defendant individually, and for each corporation or business entity under which such Defendant conducts business or of which such Defendant is an officer, and for each trust of which such Defendant is a trustee, accurate as of the date of service of this Order upon such Defendant. Said financial statement shall include assets held outside of the territory of the United States. Defendants shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules as called for by the instructions to the financial statements.

**V.**

**DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS**

**IT IS FURTHER ORDERED** that any financial or brokerage institution, escrow agent, trustee, title company, commodity trading company, business entity, or person that holds, controls, or maintains accounts or assets belonging to or titled in the name of any Defendant, or to which any of these Defendants is a signatory, or which is held on behalf of or for the benefit of

any of the Defendants, individually or jointly, or has held, controlled or maintained custody of any such asset, and that receives actual notice of this Order by personal service or otherwise, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, or other property held by, or under its control, on behalf of any Defendant in any account maintained in the name of or for the benefit of any Defendant, in whole or in part, except in accordance with any further order of the Court;

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant;

C. Within five (5) business days of the date of service of this Order provide to counsel for Plaintiff a certified statement setting forth:

1. The identification of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;

2. The balance of each such account, or a description and appraisal of the value of such asset, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification and location of any safe deposit box or storage facility that is either titled in the name individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant; and

D. Within five (5) business days of a request from the FTC, provide to the FTC copies of all records or other documents pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

The assets and funds affected by this Section shall include both existing assets and assets acquired after the issuance date of this Order.

## VI.

### **DUTIES OF THIRD PARTIES PROCESSING PAYMENTS FOR DEFENDANTS**

**IT IS FURTHER ORDERED** that any automated clearing house, network transaction processor, business entity or person providing any services or assistance in processing 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 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.

### **PROHIBITION ON DISCLOSING CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants, their agents, servants, and employees, 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 entity, corporation, subsidiary, division, affiliate, or other device, are hereby restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, email address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint;

B. Benefiting from or using the name, address, birth date, telephone number, email address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint;

*Provided, however,* that Defendants may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

## VIII.

### **DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director,

employee, independent contractor, salesperson, agent, attorney, and representative of any Defendant. Within five (5) business days following service of this Order by Plaintiff, Defendants shall serve on Plaintiff, an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

## IX.

### EXPEDITED DISCOVERY

**IT IS FURTHER ORDERED** that, notwithstanding the provisions of Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(C), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, Plaintiff is granted leave, at any time after service of this Order, to:

A. Take the deposition, on three (3) business days' notice, of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of the assets of the Defendants, or their affiliates or subsidiaries; the nature and location of documents reflecting the Defendants' business transactions, or the business transactions of the Defendants' affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward the ten (10) deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on three (3) business days' notice, from any person, whether or not a party, relating to the nature, status, or extent of Defendants' assets, or of their affiliates or subsidiaries; the location of documents reflecting the business transactions of Defendants, or of their affiliates or subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action, provided that twenty-four (24) hours' notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

**X.**

**SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE**

**IT IS FURTHER ORDERED** that Defendants shall serve answering affidavits, pleadings, and legal memoranda on counsel for Plaintiff not less than three (3) business days prior to the hearing on Plaintiff's request for a preliminary injunction. Defendants shall serve copies of all such materials on Plaintiff by delivery or facsimile to John C. Hallerud, Esq., Federal Trade Commission, 55 East Monroe Street, Suite 1860, Chicago, Illinois 60603, facsimile (312) 960-5600.

**XI.**

**WITNESS LIST**

**IT IS FURTHER ORDERED** that, if any party to this action intends to present the testimony of any witness at the hearing on a preliminary injunction in this matter, that all parties shall, at least seventy-two (72) hours prior to the scheduled date and time of hearing, file with this Court and serve on counsel for the other party a statement of the name, address, and

telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit or declaration revealing the substance of such witness' expected testimony.

**XII.**

**SERVICE OF THIS ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by first class mail, overnight delivery, facsimile, electronic mail, or personally, by employees or agents of Plaintiff, upon any bank, savings and loan institution, credit union, financial institution, brokerage house, escrow agent, retirement fund custodian, money market or mutual fund, title company, commodity trading company, common carrier, storage company, trustee, credit card processing agent, automated clearing house, network transaction processor, bank debit processing agent, commercial mail receiving agency, mail holding or forwarding company, Internet service provider, or any other person, partnership, corporation, or legal entity that may be in possession of any documents, records, assets, property, or property right of any Defendant, and any other person, partnership, corporation, or legal entity that may be subject to any provision of this Order.

**XIII.**

**CONSUMER CREDIT REPORTS**

**IT IS FURTHER ORDERED** that, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681(b), any consumer reporting agency may furnish a consumer or credit report concerning any Defendant to Plaintiff.



XIV.

**EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER**

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on September 30, 2005, at 11:59 p.m., unless within such time the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XV.

**DATE OF NEXT COURT PROCEEDING**

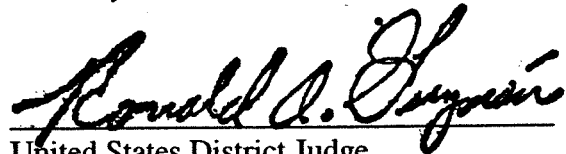
IT IS FURTHER ORDERED that each Defendant shall appear before this Court on the 30th day of September, 2005, at 9:30 a.m. at the United States Courthouse located at 219 S. Dearborn, Chicago, Illinois, Courtroom 1386, to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the complaint, against said Defendants enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Telemarketing Act, 15 U.S.C. § 6101 *et seq.*, and the Telemarketing Sales Rule, 16 C.F.R. Part 310, continuing the freeze of their assets, and imposing such additional relief as may be appropriate.

XVI.

**RETENTION OF JURISDICTION**

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

**IT IS SO ORDERED**, this 20<sup>th</sup> day of September, 2005, at 11 A.m.

  
United States District Judge

## CONSENT TO RELEASE OF FINANCIAL RECORDS

I, \_\_\_\_\_, do hereby direct any bank, savings and loan association, credit union, depository institution, finance company, commercial lending company, credit card processor, credit card processing entity, automated clearing house, network transaction processor, bank debit processing entity, brokerage house, escrow agent, money market or mutual fund, title company, commodity trading company, trustee, or person that holds, controls or maintains custody of assets, wherever located that are owned or controlled by me or at which I have an account of any kind, or at which a corporation or other entity has a bank account of any kind upon which I am authorized to draw, and its officers, employees and agents, to disclose all information and deliver copies of all documents of every nature in your possession or control which relate to the said accounts to any attorney of the Federal Trade Commission, and to give evidence relevant thereto, in the matter of Federal Trade Commission v. Oleg Oks, Aleksandr Oks, Philip Nemirovsky, Boris Pekar, et al., Civ. No. \_\_\_\_\_, now pending in the United States District Court for the Northern District of Illinois, and this shall be irrevocable authority for so doing.

This direction is intended to apply to the laws of countries other than the United States of America which restrict or prohibit the disclosure of bank or other financial information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the accounts for which I may be a relevant principal.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Print Name]