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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

_____ )	
FEDERAL TRADE COMMISSION, )	
)	
Plaintiff, )	
)	
v. )	Civil No. 03-2115 (JWB)
)	
CHECK INVESTORS, INC., <u>et al.</u> , )	
)	
Defendants. )	
_____ )	

~~[Plaintiff's Proposed]~~ **PRELIMINARY INJUNCTION**

The Federal Trade Commission ("FTC") commenced this civil action on May 12, 2003. On motion by the FTC, this Court entered a temporary restraining order ("TRO") with asset freeze and other equitable relief against Defendants on May 19, 2003. Among other things, the

TRO contained an order for Defendants to show cause why a preliminary injunction should not issue against them. A hearing was held on July 9, 2003 on the order to show cause. This Court has considered the arguments made by counsel, the pleadings and exhibits filed to date, and now being advised in the premises, finds that:

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

*2. There is good cause to believe that*

*2.* The Defendants are "debt collectors" collecting "debts," as those terms are defined in the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq.

3. The FTC has shown a likelihood of proving that the Defendants violated the FDCPA by:

a. Violating Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b), by communicating with third parties for purposes other than acquiring location information about a consumer, without having obtained directly the prior consent of the consumer or the express permission of a court of competent jurisdiction, and when not reasonably necessary to effectuate a post judgment judicial remedy;

b. Violating Section 806 of the FDCPA, 15 U.S.C. § 1692d, by engaging in conduct the natural consequence of which is to harass, oppress, or abuse a person, including, but not limited to (i) using obscene or profane language or language the natural consequence of which is to abuse the hearer, in violation of section 806(2) of the FDCPA, 15 U.S.C. § 1692d(2); and (ii) causing a telephone to ring or engaging a person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass a person at the number called, in violation of section 806(5) of the FDCPA, 15 U.S.C. § 1692d(5);

c. Violating Section 807 of the FDCPA, 15 U.S.C. § 1692e, by using false, deceptive, or misleading representations or means, including, but not limited to (i) falsely representing the character, amount, or legal status of a debt, or any services rendered or compensation which may be lawfully received by a debt collector for collection of a debt, in violation of sections 807(2)(A) and (B) of the FDCPA, 15 U.S.C. §§ 1692e(2)(A) and (B); (ii) falsely representing or implying that an individual is an attorney or that a communication is from an attorney, in violation of section 807(3) of the FDCPA, 15 U.S.C. § 1692e(3); (iii) falsely representing or implying that nonpayment of a debt will result in the arrest or imprisonment of a person or seizure, garnishment, or attachment of a person's property or wages, when such action is not lawful or when Defendants have no intention of taking such action, in violation of section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4); (iv) threatening to take action that Defendants do not intend to take, such as filing a lawsuit, in violation of section 807(5) of the FDCPA, 15 U.S.C. § 1692(5); (v) falsely representing or implying that a consumer committed a crime or other conduct in order to disgrace the consumer, in violation of section 807(7), 15 U.S.C. § 1692e(7); and (vi) using false representations or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer, in violation of section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10);

d. Violating Section 808(1) of the FDCPA, 15 U.S.C. § 1692f(1), by using unfair or unconscionable means to collect or attempt to collect a debt, including but not limited to collecting amounts (including any interest, fee, charge, or expense incidental to the principal obligation) not authorized by the agreement creating the debt or permitted by law; and

e. Violating Section 809(a) of the FDCPA, 15 U.S.C. § 1692g(a), by failing to notify consumers of their right to dispute and obtain verification of their debts and to obtain the name of the original creditor, either in the initial communication with consumers by Defendants, or within five days thereafter.

4. The FTC has shown a likelihood of proving that the Defendants violated Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45, by:

- a. Misrepresenting the amount that a consumer owes to satisfy any debt or purported debt;
- b. Misrepresenting that they are attorneys and that their communications are from an attorney;
- c. Misrepresenting that nonpayment of a debt will result in a consumer's arrest or imprisonment, or seizure, garnishment, or attachment of a consumer's property or wages;
- d. Misrepresenting that they intend to take legal action against a consumer;  
and
- e. Misrepresenting that a consumer has committed a crime by issuing a check that is ultimately dishonored.

5. There is good cause to believe that Defendants have engaged and are likely to continue to engage in acts or practices that violate the FDCPA and Section 5(a) of the FTC Act, and that the FTC is therefore likely to prevail on the merits of this action.

6. There is good cause to believe that immediate and irreparable harm will result from Defendants' violations of the FDCPA and Section 5(a) of the FTC Act unless Defendants are restrained and enjoined by order of this Court.

7. Weighing the equities and considering the FTC's likelihood of ultimate success, a preliminary injunction with an asset freeze and other equitable relief, is in the public interest.

8. As an agency of the United States, the FTC need not post a security for the issuance of a preliminary injunction. Fed.R.Civ.P. 65(c).

9. This order is in the public interest.

### DEFINITIONS

For the purposes of this Order, the following definitions shall apply:

A. "Defendants" means Check Investors, Inc., Check Enforcement, Inc., Jaredco, Inc., Barry S. Sussman, Elisabeth M. Sussman, and Charles T. Hutchins.

B. "Document(s)" or "record(s)" means

1. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and

2. Any information stored on any desktop personal computer ("PC") and workstations, laptops, notebooks, and other portable computers, whether assigned to individuals or in pools of computers available for shared use; and home computers used for work-related

purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by Defendants' participating associates, which may include persons who are not employees of the company or who do not work on company premises.

C. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables, funds, monies, and all cash, wherever located.

D. "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.

E. "Agreed Service Charge" shall mean (a) \$15 for the state of West Virginia; (b) \$20 for the states of Connecticut, Hawaii, Idaho, Indiana, Missouri, New York, Tennessee, and Utah; (c) \$25 for the states of Alaska, Arizona, Arkansas, Illinois, Kentucky, Nevada, New Hampshire, North Carolina, North Dakota, Oregon, Rhode Island, Texas, and Virginia; (d) \$30 for the states of Alabama, Delaware, Kansas, Maine, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Oklahoma, Pennsylvania, South Dakota, Vermont, Wisconsin, and Wyoming; (e) \$35 for the states of Maryland, Michigan; (f) \$40 for the state of Washington; (g) \$25 for the first check; up to \$35 for each subsequent check to the same payee for the state of California; (h) greater of \$20 or 20% of face value of the check for the state

of Colorado; (i) \$25, if face value is less than \$50; \$30 if face value is less than \$300; greater of \$40 or 5% of face value, if face value is greater than \$300 for the state of Florida; (j) greater of \$25 or 5% of face value for the states of Georgia and Louisiana; (k) greater of \$30 or 10% of face value for the state of Ohio; (l) \$25 if face value is \$100 or less; \$30 if face value is more than \$100 for the state of South Carolina; (m) greater of \$20 or 5% of face value for the state of Iowa; and (n) \$0 (zero) for the District of Columbia.

F. "Consumer" means any natural person obligated or allegedly obligated to pay any debt.

G. "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment, including, but not limited to, overdue obligations (such as medical bills that were originally payable in full within a certain time period), dishonored checks that were tendered in payment for goods or services acquired or used primarily for personal, family, or household purposes, and student loans.

**ORDER**

**ORDER PROHIBITING CERTAIN BUSINESS ACTIVITIES**

I. IT IS THEREFORE ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise, and each of them, are hereby restrained and enjoined from:

- A. Violating the FDCPA, 15 U.S.C. § 1692 *et seq.*, including but not limited to:
1. Violating Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b), by communicating with third parties for purposes other than acquiring location information about a consumer, without having obtained directly the prior consent of the consumer or the express permission of a court of competent jurisdiction, and when not reasonably necessary to effectuate a post judgment judicial remedy;
  2. Violating Section 806 of the FDCPA, 15 U.S.C. § 1692d, by engaging in conduct the natural consequence of which is to harass, oppress, or abuse a person, including, but not limited to (a) using obscene or profane language or language the natural consequence of which is to abuse the hearer, in violation of section 806(2) of the FDCPA, 15 U.S.C. § 1692d(2); and (b) causing a telephone to ring or engaging a person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass a person at the number called, in violation of section 806(5) of the FDCPA, 15 U.S.C. § 1692d(5);
  3. Violating Section 807 of the FDCPA, 15 U.S.C. § 1692e, by using false, deceptive, or misleading representations or means, including, but not limited to (a) falsely representing the character, amount, or legal status of a debt, or any services rendered or compensation which may be lawfully received by a debt collector for collection of a debt, in violation of sections 807(2)(A) and (B) of the FDCPA, 15 U.S.C. §§ 1692e(2)(A) and (B); (b) falsely representing or implying that an individual is an attorney or that a communication is from an attorney, in violation of section 807(3) of the FDCPA, 15 U.S.C. § 1692e(3); (c) falsely representing or implying that nonpayment of a debt will result in the arrest or imprisonment of a person or seizure, garnishment, or attachment of a person's property or wages, when such action



is not lawful or when Defendants have no intention of taking such action, in violation of section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4); (d) threatening to take action that Defendants do not intend to take, such as filing a lawsuit, in violation of section 807(5) of the FDCPA, 15 U.S.C. § 1692(5); (e) falsely representing or implying that a consumer committed a crime or other conduct in order to disgrace the consumer, in violation of section 807(7), 15 U.S.C. § 1692e(7); and (f) using false representations or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer, in violation of section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10);

4. Violating Section 808(1) of the FDCPA, 15 U.S.C. § 1692f(1), by using unfair or unconscionable means to collect or attempt to collect a debt, including but not limited to collecting amounts (including any interest, fee, charge, or expense incidental to the principal obligation) not authorized by the agreement creating the debt or permitted by law; and

5. Violating Section 809(a) of the FDCPA, 15 U.S.C. § 1692g(a), by failing to notify consumers of their right to dispute and obtain verification of their debts and to obtain the name of the original creditor, either in the initial communication with consumers by Defendants, or within five days thereafter;

B. Misrepresenting, directly or by implication, the amount that a consumer owes to satisfy any debt or purported debt;

C. Misrepresenting, directly or by implication, that any person is an attorney or that such person's communication is from an attorney;

D. Misrepresenting, directly or by implication, that nonpayment of a debt will result in a consumer's arrest or imprisonment, or seizure, garnishment, or attachment of a consumer's property or wages

E. Misrepresenting, directly or by implication, that any person intends to take legal action against a consumer;

F. Misrepresenting, directly or by implication, that a consumer has committed a crime by issuing a dishonored check; and

G. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding against any consumer relating or referring to the collection of any debt or alleged debt.

#### **ASSET FREEZE**

II. IT IS FURTHER ORDERED that:

A. Except as identified in sub-sections B and C of this Section II, Defendants and their officers, agents, servants, employees, attorneys, and all persons or entities directly or indirectly under the control of any of them, including any financial institution, and all other persons or entities acting in concert or participation with any of them who are served with a copy of this Order by personal service, facsimile, or otherwise, are hereby temporarily restrained and enjoined from directly or indirectly:

1. Selling, liquidating, assigning, transferring, converting, loaning, encumbering, pledging, concealing, dissipating, spending, withdrawing, or otherwise disposing of any funds, real or personal property, or other assets or any interest therein, wherever located, including any assets outside the territorial United States, which are (1) in the actual or

constructive possession of any Defendant; or (2) owned or controlled by, or held, in whole or in part for the benefit of, or subject to access by, or belong to, any Defendant; or (3) in the actual or constructive possession of, or owned or controlled by, or subject to access by, or belong to, any corporation, partnership, trust or other entity directly or indirectly under the control of Defendant.

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

B. Bank of New York account number 6105870440, in the name of Barry Sussman, shall remain free of the asset freeze provisions of this Order. Fleet Bank account number 9437138484, in the name of Elisabeth Sussman, shall remain free of the asset freeze provisions of this Order. First Union Bank account number 1030004396653, in the name of Charles Hutchins, shall remain free of the asset freeze provisions of this Order. Wachovia/First Union Bank account number 2000010241679, in the name of Hutchins Legal Services, shall remain free of the asset freeze provisions of this Order. Bank of New York account number 6106614243, in the name of Check Investors, Inc. Operating Account dba National Check Control, shall remain free of the asset freeze provisions of this Order. Bank of New York account number 6106614251, in the name of Check Investors, Inc. Escrow Account dba National Check Control, shall remain free of the asset freeze provisions of this Order. Within ten (10) calendar days of receipt, Defendants shall provide to FTC counsel copies of all monthly bank statements or other statements from the accounts designated in this sub-section B.

C. The funds, property and assets affected by this Section II shall include those assets existing as of the effective date of this Order, including without limitation, those acquired by loan or gift. The individual Defendants may retain and spend income received from employment

performed after the date of entry of this Order, provided that such income shall first be deposited into the respective accounts designated in sub-section B of this Section II. The corporate Defendants may retain and spend income received in the ordinary course of business performed after the date of entry of this Order, subject to sub-section D of this Section II, provided that such income shall first be deposited into the account designated in sub-section B of this Section II; provided, further, that the corporate Defendants may only make payments that are reasonable, necessary, and in the ordinary course of business. Further, Defendants may retain and spend assets acquired by loan or gift after the date of entry of this Order, provided that assets acquired by loan or gift in an amount greater than \$500 may be used only after disclosing in writing to FTC counsel the source and amount of such loan(s) or gift(s) and depositing such loan(s) or gift(s) into the respective accounts designated in sub-section B of this Section II.

D. With respect to each payment received by Defendants from any consumer on or after May 19, 2003, Defendants shall transfer to Bank of New York account number 6105642375, in the name of Jaredco, Inc. dba Goldman & Co. (Operating Account), an amount equal to the excess of such payment over (1) the face value of the consumer's purported dishonored check plus (2) the Agreed Service Charge for the consumer's state of residence. In the event Defendants cease their business operations, Defendants shall thereafter transfer to Bank of New York account number 6105642375, in the name of Jaredco, Inc. dba Goldman & Co. (Operating Account), the full amount of each payment received by Defendants from any consumer.

E. Nothing herein shall preclude Defendants from filing future motions with the Court for release of funds for the payment of reasonable and necessary living expenses and

attorney's fees. Nothing herein shall preclude the FTC from filing objections to any such future motion for release of funds.

### **RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES**

III. IT IS FURTHER ORDERED that any financial institution, or any person or other entity served with a copy of this Order shall:

A. Hold and retain within such entity's or person's control, and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any funds, documents, property, or other assets, except for those identified in Sections II.B and II.C above, held by or under such entity's or person's control (1) on behalf of, or for the benefit of, any Defendant or other party subject to Section II above; (2) in any account maintained in the name of, or subject to withdrawal by, any Defendant or other party subject to Section II above; or (3) that are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section II above;

B. Deny access to any safe deposit boxes that are either (1) titled in the name, individually or jointly, of any Defendant or other party subject to Section II above; or (2) subject to access by Defendant or other party subject to Section II above.

C. Provide to counsel for the FTC, within three (3) days, a statement setting forth: (1) the identification of each account or asset titled in the name, individually or jointly, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section II above, whether in whole or in part; (2) the balance of each such account, or a description of the nature and value of such asset; (3) the identification of any safe deposit box that is either titled in the name of,

individually or jointly, or is otherwise subject to access or control by, any Defendant or other party subject to Section II above, whether in whole or in part; and (4) if the account, safe deposit box, or other asset has been closed or removed, the date closed or removed and the balance on said date. Provided, that a financial institution does not have to provide the information required in this sub-paragraph if (1) the financial institution has complied with the similar provision set forth in the TRO; and (2) the information provided has not changed.

D. The accounts subject to this provision include existing assets and assets deposited after the effective date of this Order, other than those identified in Sections II.B and II.C above. This Section shall not prohibit transfers in accordance with any provision of this Order, or any further order of the Court.

E. The FTC is granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena documents immediately from any such financial institution, account custodian, or other entity concerning the nature, location, status, and extent of Defendants' assets, and compliance with this Order, and such financial institution, account custodian or other entity shall respond to such subpoena within five business days after service.

#### **FINANCIAL STATEMENTS AND PERIODIC ACCOUNTINGS**

IV. IT IS FURTHER ORDERED that

A. Within (5) five business days after service of this Order, each Defendant shall provide counsel for the FTC:

1. A completed financial statement accurate as of the date of service of this Order upon such Defendant (individual Defendants shall include all financial information as requested in the Department of Treasury – Internal Revenue Service Collection Information

Statement for Individuals (Form 433-A) attached to the TRO as Attachment A and also located at <http://www.irs.gov/pub/irs-pdf/f433a.pdf>; corporate Defendants shall include all financial information as requested in the corresponding Collection Information Statement for Businesses (Form 433 – B) attached to the TRO as Attachment B and also located at <http://www.irs.gov/pub/irs-pdf/f433b.pdf>);

2. A completed statement, verified under oath, of all payments, transfers, or assignment of funds, assets, or property worth \$1,000 or more since January 1, 2003. Such statement shall include (a) the amount transferred or assigned; (b) the name of each transferee or assignee; (c) the date of the assignment or transfer; (d) the type and amount of consideration paid the Defendant. Each statement shall specify the name and address of each financial institution and brokerage firm at which the Defendant has accounts or safe deposit boxes. Said statements shall include assets held in foreign as well as domestic accounts; and

3. A full accounting of all assets, accounts or documents outside of the territory of the United States which are held either: (1) by them; (2) for their benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly.

Provided, that a Defendant does not have to provide such financial statements if (1) the Defendant has complied with the similar provision set forth in the TRO; and (2) the information provided has not changed in substance.

B. For purposes of monitoring compliance with sub-section D of Section II of this Order, Defendants shall provide counsel for the FTC, on a bi-weekly basis, an accounting of all payments received from consumers and all amounts transferred pursuant to sub-section D of

Section II of this Order. The first accounting shall be due two weeks after entry of this Order, with subsequent accountings due every two weeks thereafter.

C. On a monthly basis, the Defendants shall provide counsel for the FTC an accounting of all payments, transfers, or assignment of funds, assets, or property worth \$500 (or if a series of payments, transfers, or assignments is made to the same payee, transferee or assignee worth in the aggregate \$500) made during the previous month by any corporate Defendant or other corporation owned or controlled, in whole or in part, directly or indirectly, by any Defendant. Such accounting shall include (a) the amount transferred or assigned; (b) the name of each transferee or assignee; (c) the date of the assignment or transfer; (d) the type and amount of consideration paid.

#### **RECORD KEEPING PROVISIONS**

V. IT IS FURTHER ORDERED that Defendants, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile, or otherwise, are hereby enjoined from:

A. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, contracts, agreements, customer files, customer lists, customer addresses and telephone numbers, correspondence, advertisements, brochures, sales material, training material, sales presentations, documents evidencing or referring to Defendants' products, data, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, "verification" or "compliance" tapes or other audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank statements,



appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind, including electronically-stored materials, that relate to the business practices or business or personal finances of Defendants or other entity directly or indirectly under the control of Defendants; and

B. Failing to create and maintain books, records, and accounts which, in reasonable detail, accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use of monies by Defendant or other entity directly or indirectly under the control of Defendants.

### **COMPLIANCE MONITORING**

VI. IT IS FURTHER ORDERED that, for the purpose of monitoring compliance with any provision of this Order, the FTC is authorized to pose as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any of them without the necessity of identification or prior notice.

### **NOTICE TO EMPLOYEES**

VII. IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, participating associates, employees, agents, and independent contractors. Within ten (10) calendar days following service of this Order by the FTC, Defendants shall provide the FTC with an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities that Defendants have served with a copy of this Order in compliance with this provision.

### CONSUMER REPORTS

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

### CORRESPONDENCE WITH PLAINTIFF

IX. For the purposes of this Order, all service on and correspondence to the FTC shall be addressed to: Gregory A. Ashe, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room NJ-2122, Washington, DC 20580. Telephone: (202) 326-3719; Facsimile: (202) 326-2558.

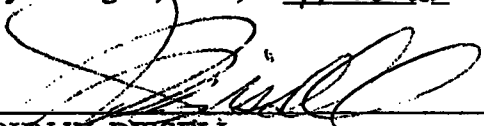
### SERVICE OF THIS ORDER

X. IT IS FURTHER ORDERED that copies of this Order may be served by facsimile transmission, personal or overnight delivery, or U.S. Mail, by agents and employees of the FTC or any state or federal law enforcement agency or by private process server, on (1) Defendants, (2) any financial institution, entity or person that holds, controls, or maintains custody of any account or asset of any Defendant, or has held, controlled or maintained custody of any account or asset of any Defendant, or (3) any other person or entity that may be subject to any provision of this Order.

**RETENTION OF JURISDICTION**

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

IT IS SO ORDERED, this 14<sup>th</sup> day of August, 2003, at 11:30 a. m.

  
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JOHN W. BISSELL  
UNITED STATES DISTRICT JUDGE