

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
Case No. 02-21754-CIV-GRAHAM

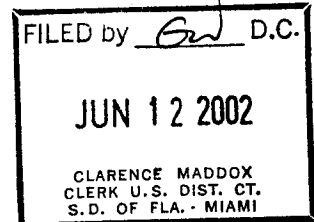
FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ASSOCIATED RECORD DISTRIBUTORS, INC.,  
a Florida corporation; ALFREDO SUSI,  
individually and as an officer or  
director of the above corporation;  
RUSSELL MACARTHUR, individually and  
as an officer or director of the  
above corporation; DAVID SIEGEL,  
individually and as an officer or  
director of the above corporation;  
BRIAN MORGENSTERN, individually and  
as an officer or director of the  
above corporation;

Defendants.



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**EX PARTE TEMPORARY RESTRAINING ORDER  
AND ORDER TO SHOW CAUSE  
WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), having filed a Complaint for Injunctive and Other Equitable Relief, including redress to consumers, pursuant to Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b) and 57b, and the FTC's Trade Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (the

"Franchise Rule" or the "Rule"), 16 C.F.R. Part 436, and having moved *ex parte* for a Temporary Restraining Order ("TRO") pursuant to Rule 65 of the Federal Rules of Civil Procedure and S.D. Fla. L.R. 7.1.E, and the Court having considered the Complaint, memorandum of law, declarations, and other exhibits filed in support of Plaintiff's motion, makes the following findings of fact and conclusions of law:

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

2. There is good cause to believe that Defendants Associated Record Distributors, Inc. ("ARD"), Alfredo Susi, Russell MacArthur, David Siegel, and Brian Morgenstern have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Franchise Rule, 16 C.F.R. Part 436, and that the Commission is therefore likely to prevail on the merits of this action.

3. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief in the form of monetary restitution or disgorgement will occur from the sale, transfer, or other disposition or concealment by Defendants of their assets or corporate records unless Defendants are immediately restrained and enjoined by Order of this Court. The evidence set forth in the Plaintiff's Ex Parte Emergency Motion

for Temporary Restraining Order and Other Equitable Relief, and in the accompanying declarations and other exhibits, shows that there is good cause to believe that Defendants have engaged in a concerted course of unlawful activity in connection with the advertising, promotion, offering, sale or servicing of music display rack business ventures to consumers nationwide, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45 and the Franchise Rule, 16 C.F.R. Part 436. Thus, there is good cause to believe that Defendants will attempt to conceal the scope of their actions to avoid returning their ill-gotten gains to consumers injured by their unlawful practices if not restrained from doing so by Order of this Court. In accordance with Rule 65(b) of the Federal Rules of Civil Procedure, good cause therefore exists for issuing this TRO on an *ex parte* basis, without notice to Defendants.

4. There is good cause for the Court to order an asset freeze and appoint a temporary Receiver for ARD. ARD, while under the control of defendants Alfredo Susi, Russell MacArthur, David Siegel and Brian Morgenstern (the "Individual Defendants"), has violated Section 5 of the FTC Act by making material misrepresentations, directly or indirectly, to induce consumers to purchase music display rack business ventures. In marketing these business ventures, Defendants have also violated the Franchise Rule by failing to provide the disclosures required by the Rule. Defendants have retained ill-gotten gains from these and other practices, and

a temporary Receiver and asset freeze are necessary in order to preserve the possibility of complete and meaningful relief at the conclusion of this litigation.

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

6. As an agency of the United States, no security is required of the Commission for the issuance of a restraining order. See Fed. R. Civ. P. 65(c).

#### Definitions

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

1. "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, inventory, checks, notes, leaseholds, effects, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located, whether in the United States or abroad;

2. "Business venture" means any written or oral business arrangement, however denominated, whether or not covered by the

Franchise Rule, which consists of the payment of any consideration for:

- a. The right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
- b. More than nominal assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business;

3. "Corporate Defendant" means Associated Record Distributors, Inc., and its successors, assigns, affiliates or subsidiaries;

4. "Defendants" means (a) the Corporate Defendant; (b) each Individual Defendant; (c) any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of the Corporate Defendant or any Individual Defendant; and (d) any person acting in active concert or participation with any of the foregoing who receives actual notice of this Order by personal service or otherwise (Fed. R. Civ. P. 65(d));

5. "Individual Defendants" means Alfredo Susi, Russell MacArthur, David Siegel, and Brian Morgenstern;

6. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term; and

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

#### ORDER

##### I. VIOLATIONS OF SECTION 5 OF THE FTC ACT PROHIBITED

IT IS THEREFORE ORDERED that, in connection with the offering for sale or selling of any franchise or other business venture, Defendants are hereby temporarily restrained and enjoined from making any material misrepresentation, or assisting others in making any material misrepresentation, either expressly or by implication, to any prospective purchaser of a franchise or other business venture, including but not limited to, the following:

- A. That purchasers of Defendants' business ventures are likely to earn substantial income;
- B. That Defendants provide purchasers of their business ventures with a specific quantity of audio cassettes and compact discs of the "hottest-selling" music by today's "most popular" artists, such as Britney Spears and 'N Sync;
- C. That Defendants provide significant assistance in the operation of purchasers' businesses ventures, including but not limited to, claims that Defendants use demographic research to individually select and provide the music that will sell well in each purchaser's particular locations;
- D. That references have purchased Defendants' business ventures or will provide reliable descriptions of experiences with the business venture; or
- E. That Defendants have obtained the consent of store owners in the prospective business venture purchaser's geographic area for the placement of display racks.

## II. VIOLATIONS OF THE FRANCHISE RULE PROHIBITED

IT IS FURTHER ORDERED that Defendants are hereby temporarily restrained and enjoined from violating or assisting others to

violate any provisions of the Franchise Rule, 16 C.F.R. Part 436, by, including but not limited to:

- A. Failing to provide a prospective purchaser with a complete and accurate disclosure document as required by the Franchise Rule, 16 C.F.R. § 436.1(a);
- B. Failing to provide a prospective purchaser with an earnings claim document as required by the Franchise Rule, 16 C.F.R. § 436.1(b)-(e);
- C. Failing to disclose, in immediate conjunction with any generally disseminated ("advertised") earnings claim, information required by the Franchise Rule including the number and percentage of prior purchasers known by Defendants to have achieved the same or better results, 16 C.F.R. § 436.1(e)(3)-(4);
- D. Failing to have a reasonable basis for any earnings claim at the time such claim is made, as required by the Franchise Rule, 16 C.F.R. § 436.1(b)-(e);
- E. Failing to disclose, in immediate conjunction with any earnings claim, and in a clear and conspicuous manner, that material which constitutes a reasonable basis for the earnings claim is available to the prospective purchasers;
- F. Failing to provide material which constitutes a reasonable basis for any earnings claim to prospective



purchasers, the Commission, or its staff upon reasonable demand; or

- G. Making any claim or representation to prospective purchasers that is contradictory to the information required to be disclosed by Section 436.1 of the Franchise Rule.

### III. ASSET FREEZE

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

- A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any assets, wherever located, that are (a) owned or controlled, in whole or in part, by the Corporate Defendant or any Individual Defendant; (b) titled or held in the name, singly or jointly, of the Corporate Defendant or any Individual Defendant; (c) in the actual or constructive possession of the Corporate Defendant or any Individual Defendant; or (d) 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, the Corporate Defendant or any Individual

- Defendant, including, but not limited to, any assets held by or for the Corporate Defendant or any Individual Defendants at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind;
- B. Opening or causing to be opened any safe deposit boxes titled in the name of or subject to access by the Corporate Defendant or any Individual Defendant;
  - C. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of the Corporate Defendant or any Individual Defendant;
  - D. Securing a loan with or incurring a lien on the real property, the personal property, or other asset in the name, singly or jointly, of the Corporate Defendant or any Individual Defendant; and
  - E. Notwithstanding the provisions of this Section, Defendants shall transfer all assets of the Corporate Defendant to the temporary Receiver pursuant to Section VIII of this Order.

Provided, however, that the assets affected by this Section shall include: (1) all of the assets of the Corporate Defendant and Individual Defendants existing as of the date this Order was

entered; and (2) for assets obtained after the date this Order was entered, only those assets of the Corporate Defendant and Individual Defendants that are derived from or otherwise related to the sale of business ventures, including franchises.

#### IV. DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that, pending determination of Plaintiff's request for a preliminary injunction, any financial or brokerage institution, business entity, or person that holds, controls or maintains custody of any account or asset titled in the name of, held for the benefit of, or otherwise under the control of the Corporate Defendant or any Individual Defendant, or that has held, controlled or maintained custody of any such account or asset at any time since August 1, 2000, shall:

- A. Prohibit any person or entity from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any such asset except:
1. As directed by further order of the Court; or
  2. For assets held in the name or for the benefit of the Corporate Defendant, as directed by the temporary Receiver appointed pursuant to Section VII herein;

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

1. Titled in the name of the Corporate Defendant or any Individual Defendant, either individually or jointly; or
2. Otherwise held for the benefit of or subject to access by the Corporate Defendant or any Individual Defendant;

Notwithstanding these subsections, the temporary Receiver appointed pursuant to Section VII herein shall be provided with access to any safe deposit box individually or jointly titled in the name of, subject to access by, or held for the benefit of the Corporate Defendant;

C. Provide counsel for the Commission and the temporary Receiver appointed pursuant to Section VII herein, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. The identification number of each such account or asset titled in the name, individually or jointly, or held on behalf of, or for the benefit of, the Corporate Defendant or any Individual Defendant;
2. The balance of each such account, or a description of the nature and value of such asset as of the time this Order is served, and, if the account or other

- asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and
3. The identification of any safe deposit box that is either titled in the name, individually or jointly, or is otherwise subject to access by the Corporate Defendant or any Individual Defendant;
- D. Upon the request by the temporary Receiver or the Commission, promptly provide the temporary Receiver and the Commission with copies of all records or other documentation 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; and
  - E. Cooperate with all reasonable requests of the temporary Receiver relating to implementation of this Order, including transferring funds.

V. FOREIGN ASSET REPATRIATION

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

- A. File with the Court, under seal, a full accounting of all funds, documents, and assets outside of the United States which are (1) titled in the name, individually or jointly, of the Corporate Defendant or any Individual Defendant; or (2) held by any person or entity for the benefit of the Corporate Defendant or any Individual Defendant; or (3) under the direct or indirect control, whether jointly or singly, of the Corporate Defendant or any Individual Defendant;
- B. Transfer to the territory of the United States and deliver to the temporary Receiver all funds, documents, and assets located in foreign countries which are (1) titled in the name individually or jointly of any Defendant; or (2) held by any person or entity, for the benefit of any Defendant; or (3) under any Defendant's direct or indirect control, whether jointly or singly; and
- C. File with the Court, under seal, all records of accounts or assets of the Corporate Defendant and Individual

Defendants held by financial institutions located outside the territorial United States.

VI. INTERFERENCE WITH REPATRIATION

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

- A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a "duress" event has occurred under the terms of a foreign trust agreement until such time that all assets have been fully repatriated pursuant to the preceding Section of this Order; or
- B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time as all assets have been fully repatriated pursuant to the preceding Section of this Order.

VII. APPOINTMENT OF A TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Michael R. Tein, Esq., of the law firm Shook, Hardy, & Bacon, is appointed as temporary Receiver for the Corporate Defendant, with the full powers of an equity receiver. The temporary Receiver shall be the agent of this Court in acting as Receiver under this Order.

VIII. DUTIES AND AUTHORITY OF THE RECEIVER

IT IS FURTHER ORDERED that the temporary Receiver is directed and authorized to accomplish the following consistent with this Order, the FTC Act and the Franchise Rule:

- A. Assume full control of the Corporate Defendant by removing all Individual Defendants, and any officer, independent contractor, employee, or agent of the Corporate Defendant, from control and management of the affairs of the Corporate Defendant;
- B. Take exclusive custody, control, and possession of all the funds, property, mail and other assets of, in the possession of, or under the control of the Corporate Defendant, wherever situated. The temporary Receiver shall have full power to sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work



papers, and records of accounts, including computer-maintained information, and other papers and documents of the Corporate Defendant, including documents related to customers or clients whose interests are now held by or under the direction, possession, custody or control of the Corporate Defendant;

- C. Take all steps necessary to secure the business premises and any storage or other facilities of the Corporate Defendant, including but not limited to premises located at 2999 NE 191 Street, Aventura, FL 33180; and any and all other premises under the control of the Corporate Defendant;
- D. Preserve, hold and manage all receivership assets, and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to customers or clients;
- E. Prevent the withdrawal or misapplication of funds entrusted to the Corporate Defendant, and otherwise protect the interests of customers or clients;
- F. Manage and administer the Corporate Defendant by performing all acts incidental thereto that the temporary Receiver deems appropriate, including hiring or dismissing any and all personnel or suspending operations;

- G. Collect all money owed to the Corporate Defendant;
- H. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign court necessary to preserve or increase the assets of the Corporate Defendant or to carry out the Receiver's duties pursuant to this Order;
- I. Choose, engage and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the temporary Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;
- J. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the Corporate Defendant at any time, including before the discovery conference.
- K. Open one or more bank accounts as designated depositories for funds of the Corporate Defendant. The temporary Receiver shall deposit all funds of the Corporate Defendant in such designated accounts and shall make all payments and disbursements from the receivership estate from such;

- L. Make payments and disbursements from the Corporate Defendant that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The temporary Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Corporate Defendant prior to the date of entry of this Order, except for payments that the temporary Receiver deems necessary or advisable to secure assets of the Corporate Defendant; and
- M. Prepare and submit a Report to this Court and to the parties, not less than two (2) days prior to the scheduled Preliminary Injunction Hearing. Such report should include all information the temporary Receiver determines is material to the Preliminary Injunction Hearing, and must include the following information about the Corporate Defendant: (1) a description of the business and of the Individual Defendants' roles in the business; (2) an enumeration and/or detailed description of revenues and expenditures; (3) identification of all earnings claims made in the course of offering for sale Defendants' business ventures, including franchises; (4) any substantiation for such earnings claims; and (5) the number of purchasers of Defendants' business ventures,

including franchises, and the amount they paid for Defendants' business ventures.

**IX. TURNOVER OF PROPERTY TO THE RECEIVER**

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants and any other person or entity served with a copy of this Order, shall immediately or within such time as permitted by the temporary Receiver in writing, deliver over to the temporary Receiver:

- A. Possession and custody of all funds, assets, property, and all other assets, owned beneficially or otherwise, wherever situated, of the Corporate Defendant;
- B. Possession and custody of documents of the Corporate Defendant, including but not limited to, all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers;
- C. Possession and custody of all assets being held by or on behalf of the Corporate Defendant or on behalf of the Corporate Defendant's customers;
- D. All keys, computer passwords, entry codes, and combinations to locks necessary to gain or to secure

access to any of the assets or documents of the Corporate Defendant, including but not limited to, access to the Corporate Defendant' business premises, means of communication, accounts, computer systems, or other property; and

- E. Information identifying the accounts, employees, properties and other assets and obligations of the Corporate Defendant.

**X. DUTY TO COOPERATE WITH THE RECEIVER**

IT IS FURTHER ORDERED that Defendants and all other persons or entities served with a copy of this Order shall cooperate fully with and assist the temporary Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the temporary Receiver that the temporary Receiver deems necessary to exercising the authority conferred upon him by this Order; providing any password required to access any computer or electronic files in any medium; and discharging the responsibilities of the temporary Receiver under this Order, and advising all persons who owe money to the Corporate Defendant that all debts should be paid directly to the temporary Receiver.

## XI. STAY OF ACTIONS

IT IS FURTHER ORDERED that, except by leave of the Court, during the pendency of the receivership ordered herein, Defendants and all other persons and entities are hereby enjoined from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, in, or in the name of, the Corporate Defendant, the temporary Receiver, receivership assets, or the Receiver's duly authorized agents acting in their capacities as such, and all such actions are hereby stayed, including but not limited to, the following actions:

- A. Commencing, prosecuting, litigating or enforcing any suit, except that actions may be filed to toll any applicable statute of limitations;
- B. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of the Corporate Defendant or any property claimed by the Corporate Defendant, or attempting to foreclose, forfeit, alter or terminate any of ARD's interests in property, whether such acts are part of a judicial proceeding or otherwise;
- C. Using self-help, executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of

impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of the Corporate Defendant, the temporary Receiver, or any agent of the temporary Receiver; and

- D. Doing any act or thing to interfere with the temporary Receiver taking control, possession or management of the property subject to the receivership, or in any way to interfere with the temporary Receiver or the duties of the temporary Receiver; or with the exclusive jurisdiction of this Court over the property and assets of the Corporate Defendant.

This Section does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

#### XII. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the temporary Receiver and all personnel hired by the temporary Receiver as herein authorized, including counsel to the temporary Receiver, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by, or in the possession or control of, or which may be received by the Corporate Defendant.

The temporary Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of this Order. The temporary Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

**XIII. MAINTENANCE OF RECORDS**

IT IS FURTHER ORDERED that all Defendants are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of any documents, in any manner, that relate to the business practices or business or personal finances of the Corporate Defendant or any Individual Defendant.

**XIV. ACCESS TO RECORDS AND PREMISES**

IT IS FURTHER ORDERED that the temporary Receiver and the defendants shall allow representatives of the Commission immediate access to all premises where the defendants are conducting business or have conducted business and to all premises where defendants' business records may be located, so that the representatives of the Commission may inspect all documents of the defendants and may copy such documents either on or off the premises.



**XV. SERVICE OF ORDER BY FAX**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of the Corporate Defendant or any Individual Defendant, or that may be subject to any provision of this Order.

**XVI. FINANCIAL STATEMENT**

IT IS FURTHER ORDERED that, at two (2) days prior to the preliminary injunction hearing in this matter, and in no event later than two weeks after entry of this Order, the Corporate Defendant and each Individual Defendant shall file with the Court, under seal, a completed financial statement, on the forms attached to this Order as Attachments A and B, accurate as of the date of service of this Order upon that Defendant.

**XVIII. CONSUMER CREDIT REPORTS**

IT IS FURTHER ORDERED that, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681b, any consumer reporting agency may furnish the Commission or the temporary Receiver with a consumer report concerning any Defendant.

**XIX. SERVICE ON THE COMMISSION**

IT IS FURTHER ORDERED that, with regard to any correspondence, pleadings, or notifications related to this Order, service on the Commission shall be performed by personal or facsimile delivery (but not delivery by U.S. Mail) to the attention of Elizabeth A. Hone, Counsel for the Commission, at the Federal Trade Commission, 600 Pennsylvania Ave., N.W., Room 238, Washington, DC 20580, facsimile number (202) 326-3395 before 4:45 p.m. (EST) of the day such service is due.

**XX. PAPERS ON MOTION FOR PRELIMINARY INJUNCTION**

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 6(d), memoranda and affidavits, if any, supporting or opposing the motion for preliminary injunction shall be served not later than one day before the preliminary injunction hearing.

**XXI. PRELIMINARY INJUNCTION HEARING**

IT IS FURTHER ORDERED that three (3) days following service of the Summons, Complaint, and this Order on the Corporate Defendant and Individual Defendants, the Court shall conduct a hearing to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint, against Defendants, enjoining them from further violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a),

and the Franchise Rule, 16 C.F.R. Part 436, continuing the freeze of their assets, appointing a permanent receiver, and imposing such additional relief as may be appropriate.

The parties are instructed to notify Chambers upon service of the Complaint and this Order, so that the Court may provide the parties with an exact time for the hearing. If the Defendants request the hearing be postponed for a later date, the Court will entertain any such request, as appropriate.

In addition, the Receiver shall appear at the preliminary injunction hearing, and at that time, the Court will determine the appropriate bond.

**XXII. SEALING OF THE COURT FILE**

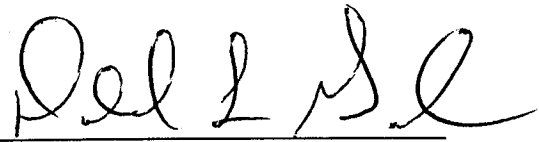
IT IS FURTHER ORDERED that the entire file of this case, including the docket and all pleadings, motion, memoranda of law, exhibits filed in support thereof, and all ordered entered by this Court shall be sealed, with the exception that the Clerk of the Court shall provide Plaintiff's counsel, Elizabeth A. Hone, Esq., with a copy of this Order. The seal shall expire after the Defendants have been served with the temporary restraining order in this matter. Provided, however, that the Order shall not be construed to prohibit service of the Temporary Restraining Order or other pleadings on, or other disclosures by Plaintiff to, Defendants, financial institutions or other entities or persons that

may hold assets of Defendants, criminal law enforcement authorities or credit reporting agencies.

**XXIII. COURT'S RETENTION OF JURISDICTION**

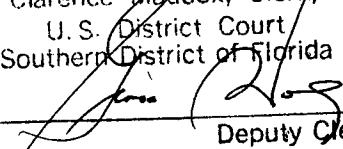
IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all purposes.

DONE AND ORDERED in Chambers at Miami, Florida, this 12<sup>th</sup> day of June, 2002.



DONALD L. GRAHAM  
UNITED STATES DISTRICT JUDGE

cc: Elizabeth A. Hone, Esq.

Certified to be a true and correct copy of the document on file  
Clarence Maddox, Clerk,  
U.S. District Court  
Southern District of Florida  
By  Deputy Clerk  
Date 6-12-2002