

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Federal Trade Commission,

Plaintiff,

v.

Business Card Experts, Inc. d/b/a BCE
Media, a Minnesota corporation;
BCE, Inc., a Minnesota corporation;
Scott R. Boardman, individually and as an
officer of Business Card Experts, Inc. and
BCE, Inc.; and
Stewart P. Grandpre, individually and as an
officer of Business Card Experts, Inc. and
BCE, Inc.,

Defendants.

Sealed
Case No. 06-SC4671

AS

AS ~~PROPOSED ORDER~~

Plaintiff, the Federal Trade Commission ("Commission"), having filed a Complaint for a Permanent Injunction and Other Relief, including redress to consumers, pursuant to Sections 13(b) and 19(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b(a), and having moved for an Ex Parte Temporary Restraining Order 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, finds that:

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FILED NOV 20 2006
RICHARD D. SLETTEN, CLERK
JUDGMENT ENTD
DEPUTY CLERK WMS

1. This Court has jurisdiction of 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 Business Card Experts, Inc. d/b/a BCE Media, BCE, Inc., Scott R. Boardman, and Stewart P. Grandpre 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 Commission's Telemarketing Sales Rule (the "TSR" or "Rule"), 16 C.F.R. Part 310, 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 harm will result from the Individual Defendants' and the Corporate Defendants' ongoing violations of Section 5 of the FTC Act and the TSR unless they are restrained and enjoined by Order of this Court;
4. 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, or other disposition or concealment by the Defendants of assets or records unless Defendants are immediately restrained and enjoined by Order of this Court.

Therefore, in accordance with Fed. R. Civ. P. 65(b), good cause and the

interests of justice require that this Order be granted without prior notice to Defendants. Accordingly, the Commission is relieved of the duty to provide the Defendants with prior notice of the Commission's motion;

5. Good cause exists for appointing a temporary Receiver for the Corporate Defendants Business Card Experts, Inc. and BCE, Inc.;
6. Weighing the equities and considering the Commission's likelihood of ultimate success, a Temporary Restraining Order with an asset freeze, appointment of a temporary Receiver, and other equitable relief is in the public interest; and
7. No security is required of any agency of the United States for issuance of a restraining order. Fed. R. Civ. P. 65(c).

DEFINITIONS

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, which consists of:

- a. the payment of any consideration for the right or means to offer, sell, or distribute goods or services (regardless of whether identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
 - b. which is represented, either expressly or by implication, to provide the purchaser with an income exceeding the price paid or charged for the business venture;
3. "Corporate Defendants" means Business Card Experts and BCE, Inc., and their successors, assigns, affiliates or subsidiaries;
 4. "Individual Defendants" means Scott R. Boardman and Stewart P. Grandpre;
 5. "Defendants" means (a) each Corporate Defendant; and (b) each Individual Defendant. Furthermore, any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of any Corporate Defendant or any Individual Defendant, and any person or entity in active concert or participation with any of the foregoing who receives actual notice of this Order by personal service or otherwise, is bound to comply with this Order, *see* Fed. R. Civ. P. 65(d), whether these persons or entities are acting directly or through a trust, corporation,

subsidiary, division, or other device;

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;
7. "Receiver" shall mean the temporary receiver appointed in Section I of this Order and any deputy receivers that may be named by the temporary receiver;
8. "Receivership Defendants" shall mean the Corporate Defendants.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants are hereby temporarily restrained and enjoined from making, or assisting in the making of, expressly or by implication, orally or in writing any false or misleading statement or representation of material fact including, but not limited to:

- A. the potential income or profits that can be earned from operating any business venture offered for sale by Defendants;
- B. the number of persons who have purchased or are currently operating any business venture offered for sale by Defendants;
- C. the fact that any person has operated or purchased a business venture from Defendants or can provide an independent or reliable report about any business venture offered for sale by Defendants;
- D. failing to disclose any personal relationship with or consideration promised or paid to any person identified by Defendants as a purchaser or operator of a business venture offered for sale by Defendants.

II. ASSET FREEZE

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

- A. Transferring, liquidating, converting, encumbering, pledging,

loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, shares of stock, or other assets, or any interest therein, wherever located, whether within the United States or within a jurisdiction outside the United States, that are: (1) owned or controlled by any of the Corporate Defendants or Individual Defendants, in whole or in part, (2) held for the benefit of any Corporate Defendant or Individual Defendant; (3) in the actual or constructive possession of any Corporate Defendant or Individual Defendant; or (4) 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 any Corporate Defendant or Individual Defendant, including, but not limited to, any assets held by or for, or subject to access by, any of the Corporate Defendants or Individual Defendants, at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metals dealer, or other financial institution or depository of any kind;

B. Physically opening or causing to be opened any safe deposit boxes titled in the name of any Corporate Defendant or Individual Defendant, or

subject to access by any of them;

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

D. Obtaining a personal or secured loan encumbering the assets of any Corporate Defendant or Individual Defendant; and

E. Incurring liens or other encumbrances on real property, personal property or other assets titled in the name, singly or jointly, of any Corporate Defendant or Individual Defendant.

The assets affected by this Section shall include: (1) all assets of any of the Corporate Defendants or Individual Defendants as of the time this Order was entered; and (2) assets obtained after the time this Order was entered if the assets are derived from the conduct alleged in the Commission's Complaint.

III. RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS

IT IS FURTHER ORDERED that, pending determination of the Commission's request for a preliminary injunction, any financial or brokerage institution, business entity, or person served with a copy of this Order that holds, controls or maintains custody of any account or asset of any Corporate Defendant or Individual Defendant shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such asset, except by further order of the Court;

B. Deny all persons, except the Receiver acting pursuant to Section IX of this Order, Defendants access to any safe deposit box that is titled in the name, individually or jointly or otherwise subject to access by any Corporate Defendant or Individual Defendant;

C. Provide the Commission's counsel, 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, of any Corporate Defendant or Individual Defendant, or held on behalf of, or for the benefit of any Corporate Defendant or Individual Defendant;
2. the balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or 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 titled in the name, individually or jointly, of any Corporate Defendant or Individual Defendant, or is otherwise subject to access by any Corporate Defendant or Individual Defendant; and

D. Upon request by the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to each 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.

IV. PRESERVATION OF RECORDS

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

- A. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business, business practices, assets, or business or personal finances of any Corporate Defendant or Individual Defendant, and

B. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect Defendants' incomes, disbursements, transactions, and use of money.

V. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that each Corporate Defendant and Individual Defendant, within ~~forty-eight (48) hours~~ ^{five (5) business days following the} of service of this Order, shall prepare and deliver to counsel for the Commission and to the Receiver completed financial statements on the forms attached to this Order as Attachment A (Financial Statement of Individual Defendant) for themselves individually, and Attachment B (Financial Statement of Corporate Defendant), for each business entity under which they conduct business or of which they are an officer, and for each trust for which any Corporate Defendant or Individual Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this Order. Each Corporate Defendant and Individual Defendant shall include in the financial statements a full accounting of all funds and assets, whether located inside or outside of the United States, that are: (a) titled in the name of such Corporate Defendant or Individual Defendant, jointly, severally or individually; (b) held by any person or entity for the benefit of such Corporate Defendant or Individual Defendant; or (c) under the direct or indirect control of such Corporate Defendant or Individual Defendant.



VI. CONSUMER CREDIT REPORTS

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 Corporate Defendant or Individual Defendant, to the Commission.

VII. FOREIGN ASSET REPATRIATION

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

A. Provide the Commission and the Receiver with 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 any Corporate Defendant or Individual Defendant; or (2) held by any person or entity for the benefit of any Corporate Defendant or Individual Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Corporate Defendant or Individual Defendant;

B. Transfer to the territory of the United States and deliver to the Receiver all funds, documents, and assets located in foreign countries which are: (1) titled in the name individually or jointly of any Corporate Defendant or Individual Defendant; or (2) held by any person or entity, for the benefit of any Corporate Defendant or Individual Defendant; or (3) under the direct or indirect control of any Corporate Defendant or Individual Defendant, whether jointly or

singly;

C. Transfer to the territory of the United States and deliver to the Receiver all funds, documents, and assets located in foreign countries which are: (1) titled in the name individually or jointly of any Corporate Defendant or Individual Defendant; or (2) held by any person or entity, for the benefit of any Corporate Defendant or Individual Defendant; or (3) under the direct or indirect control of any Corporate Defendant or Individual Defendant, whether jointly or singly;

D. Provide the Commission access to all records of accounts or assets of the Corporate Defendant and Individual Defendants held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records attached to this Order as Attachment C.

VIII. INTERFERENCE WITH REPATRIATION

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

A. Sending any statement, letter, 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 Section VII of this Order;

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 that all assets have been fully repatriated pursuant to Section VII of this Order.

IX. APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED that FRANCIS X. HERMANN is appointed temporary receiver for the Receivership Defendants. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court.

X. RECEIVER'S DUTIES

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

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

B. Take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody, or under the control of, the Receivership Defendants, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all assets and documents of the Receivership Defendants and other persons or entities whose interests are now under the direction, possession, custody, or control of, the Receivership Defendants. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to the Receivership Defendants. Provided, however, that the Receiver shall not attempt to collect any amount from a consumer if the Receiver believes the consumer was a victim of the unfair or deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

C. Take all steps necessary to secure each location from which the Receivership Defendants operate their business. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable: (1) serving this Order; (2) completing a written inventory of all receivership assets; (3) obtaining pertinent information from all employees and other agents of the Receivership Defendants, including, but not limited to, the name, home

address, social security number, job description, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) photographing and video taping any or all portions of the location; (5) securing the location by changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at that location; and (6) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises documents or assets of the Receivership Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order;

D. Conserve, hold, and manage all assets of the Receivership Defendants, and perform all acts necessary or advisable to preserve the value of those assets in order to prevent any irreparable loss, damage, or injury to consumers or creditors of the Receivership Defendants, including, but not limited to, obtaining an accounting of the assets and preventing the unauthorized

transfer, withdrawal, or misapplication of assets;

E. Enter into contracts and purchase insurance as advisable or necessary;

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

G. Manage and administer the business of the Receivership Defendants until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes but is not limited to retaining, hiring, or dismissing any employees, independent contractors, or agents;

H. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

I. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership

Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Receivership Defendants, such as rental payments;

J. Suspend business operations of the Receivership Defendants if in the judgment of the Receiver such operations cannot be continued legally and profitably;

K. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the assets of the Receivership Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

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

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

N. Open one or more bank accounts as designated depositories for funds of the Receivership Defendants. The Receiver shall deposit all funds of the receivership Defendants in such a designated account and shall make all payments and disbursements from the receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;

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

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

XI. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER

IT IS FURTHER ORDERED that Defendants and any other person or entity with possession, custody or control of property of or records relating to the Receivership Defendants shall upon notice of this order by personal service or otherwise immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

A. All assets of the Receivership Defendants;

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

C. All computers and data in whatever form used to conduct the business of the Receivership Defendants;

D. All assets belonging to other persons or entities whose interests are now under the direction, possession, custody, or control of, the Receivership Defendants; and

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

In the event that any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Section, the Receiver may file ex parte an Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, Writs of Possession or Sequestration or other equitable writs requested by the

Receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county, or any other federal or state law enforcement officer, to seize the asset, document, or other item covered by this Section and to deliver it to the Receiver.

XII. PROVISION OF INFORMATION TO RECEIVER

IT IS FURTHER ORDERED that Defendants shall provide to the Receiver, immediately upon request, the following:

A. A list of all assets and property, including accounts, of the Receivership Defendants that are held in any name other than the name of a Receivership Defendant, or by any person or entity other than a Receivership Defendant; and

B. A list of all agents, employees, officers, servants or those persons in active concert and participation with the Individual Defendants and Receivership Defendants, who have been associated or done business with the Receivership Defendants.

XIII. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and all other persons or entities served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the assets of the Receivership Defendants. This cooperation and assistance shall include, but not

be limited to: providing information to the Receiver that the Receiver deems necessary in order to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; and advising all persons who owe money to the Receivership Defendants that all debts should be paid directly to the Receiver; transferring funds at the Receiver's direction and producing records related to the assets and sales of the Receivership Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers and other financial institutions and depositories of any kind, and all third-party billing agents, common carriers, and other telecommunications companies, that have transacted business with the Receivership Defendants.

XIV. INTERFERENCE WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from directly or indirectly:

- A. Interfering with the Receiver managing, or taking custody, control, or possession of, the assets or documents subject to this receivership;
- B. Transacting any of the business of the Receivership Defendants;
- C. Transferring, receiving, altering, selling, encumbering, pledging,

assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendants, or the Receiver; and

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

XV. STAY OF ACTIONS AGAINST RECEIVERSHIP DEFENDANTS

IT IS FURTHER ORDERED that, except by leave of this Court, during pendency of the receivership ordered herein, Defendants, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Defendants, including, but not limited to:

A. Petitioning, or assisting in the filing of a petition, that would cause any Receivership Defendant to be placed in bankruptcy;

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Receivership Defendants, including the issuance or employment of process against the Receivership Defendants, *except* that such actions may be commenced if necessary to toll any applicable statute of

limitations;

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

D. Initiating any other process or proceeding that would interfere with the Receiver managing or taking custody, control, or possession of, the assets or documents subject to this receivership.

Provided that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

XVI. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, 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, in the possession or control of, or which may be received by, the Receivership Defendants. The 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 entry of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

XVII. RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$ 25,000.00 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs. 28 U.S.C. 754.

XVIII. ACCESS TO BUSINESS OFFICES AND RECORDS

IT IS FURTHER ORDERED that, in order to allow the Commission and the Receiver to preserve assets and evidence relevant to this action, and to expedite discovery, Plaintiff and Receiver, and their representatives, agents, and assistants, shall have immediate access to the business premises of the Receivership Defendants. Such locations include, but are not limited to: (i) 6130 Blue Circle Drive, Minnetonka, Minnesota 55343; and (ii) 5929 Baker Road, Minnetonka, Minnesota 55343. The Commission and the Receiver, and their representatives, agents, and assistants, are authorized to employ the assistance of

the U.S. Marshal's office and other law enforcement officers as they deem necessary to effect service and to implement peacefully the provisions of this Order. The Commission and the Receiver, and their representatives, agents, and assistants, are authorized to remove documents from the Receivership Defendants' premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action.

Furthermore, the Receiver shall allow the Corporate Defendants and Individual Defendants reasonable access to the premises and business records of the Receivership Defendants within his possession for the purpose of inspecting and copying materials relevant to this action. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

XIX. EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, in anticipation of the preliminary injunction hearing in this matter, the Commission and the Receiver are authorized to conduct expedited discovery concerning Defendants' assets and the location of business records in accordance with the following provisions:

A. The Commission and the Receiver may take the depositions of parties and non-parties. Forty-eight hours (48) notice shall be sufficient notice for

such depositions;

B. The Commission and the Receiver may serve upon parties requests for production of documents or inspection that require production or inspection within five (5) calendar days of service, and may serve subpoenas upon non-parties that direct production or inspection within five (5) calendar days of service;

C. The Commission and the Receiver may serve deposition notices and other discovery requests upon the parties to this action by facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means; and

D. Any discovery taken pursuant to this Order is in addition to, and is not subject to, the presumptive limits on discovery set forth in the Federal Rules of Civil Procedure and Local Rules of this Court. If a Defendant fails to appear for a properly noticed deposition or fails to comply with a request for production or inspection, that Defendant may be prohibited from introducing evidence at the hearing on the Commission's request for a preliminary injunction.

XX. SERVICE BY FACSIMILE AUTHORIZED

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents

or assets of any Corporate Defendant or Individual Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall effect service upon the entire financial institution.

XXI. DEFENDANTS' DUTY TO DISTRIBUTE ORDER

IT IS FURTHER ORDERED that the Corporate Defendants and Individual Defendants shall immediately provide a copy of this Order to each of their affiliates, subsidiaries, divisions, sales entities, successors, assigns, officers, directors, employees, independent contractors, client companies, agents, attorneys, spouses and representatives, and shall, within ten (10) days from the date of entry of this Order, provide the Commission with a sworn statement that: (A) confirms that Defendants have provided copies of the Order as required by this paragraph; and (B) lists the names and addresses of each entity or person to whom Defendants provided a copy of the Order. Furthermore, the Corporate Defendants and Individual Defendants shall not take any action that would encourage officers, agents, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

XXII. DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire ten (10) days from the date of entry noted below unless, within such time, the Order is extended for an additional period not to exceed ten (10) days for good cause shown, or unless, as to any Corporate Defendant or Individual Defendant, such Defendant consents to an extension for a longer period.

XXIII. ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that each of the Corporate Defendants and Individual Defendants shall appear before this Court on the 12th day of December, 2006, at 3:00 o'clock P.m., to show cause, if there is any, why this Court should not enter a Preliminary Injunction enjoining the violations of law alleged in the Commission's Complaint, continuing the freeze of their assets, continuing the Receivership and imposing such additional relief as may be appropriate.

XXIV. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that any brief concerning the Commission's request for entry of a preliminary injunction must be filed with the Clerk's Office and received by counsel that have entered an appearance no later than ~~72 hours~~

12:00 noon on Friday, December 8, 2006.

~~before the time scheduled for the preliminary injunction hearing.~~ The parties must file with the Clerk's Office and deliver to counsel that have entered an appearance any affidavits and other evidence upon which they intend to rely in connection with the Commission's request for a preliminary injunction no later than 24 hours before the time scheduled for the preliminary injunction hearing. If any party intends to present the testimony of any witness at the hearing on a preliminary injunction, that party shall file with the Court and deliver to counsel that have entered an appearance a statement disclosing the name, address and telephone number of any such witness, and either a summary of the witness's expected testimony, or the witness's affidavit or declaration revealing the substance of the witness's testimony, no later than 24 hours before the time scheduled for the preliminary injunction hearing.

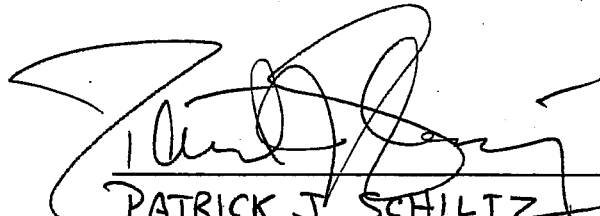
XXV. SERVICE UPON PLAINTIFF

IT IS FURTHER ORDERED that Defendants shall serve all pleadings, memoranda, correspondence, affidavits, declarations, or other documents related to this Order or Plaintiff's motion for a preliminary injunction by facsimile transmission to (202) 326-3261, by hand delivery to the offices of the Federal Trade Commission, at 600 Pennsylvania Avenue, NW, Room H-286, Washington, DC 20580, and addressed to the attention of Karen S. Hobbs, or by overnight shipment through a third-party commercial carrier for delivery at this address.

XXVI. RETENTION OF JURISDICTION

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

SO ORDERED, this 29th day of November, 2006 at 5:15 p.m., Central Standard Time.



PATRICK J. SCHILTZ
UNITED STATES DISTRICT JUDGE