

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 18-61017-CIV-ALTONAGA/Seltzer**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**POINTBREAK MEDIA, LLC, et al.,**

Defendants.

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**PRELIMINARY INJUNCTION**

On May 7, 2018, Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) [ECF No. 1] pursuant to section 13(b) of the Federal Trade Commission Act (“FTC Act”), *see* 15 U.S.C. § 53(b). That same day, the FTC moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Dustin Pillionato; Justin Ramsey; Aaron Michael Jones; Ricardo Diaz; Michael Pocker; Steffan Molina; Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; Modern Source Media, LLC; and Perfect Image Online LLC. (*See Ex Parte* Motion for a Temporary Restraining Order [ECF No. 5]).

On May 8, 2018, the Court granted the FTC’s *Ex Parte* Motion and entered a Sealed Order [ECF No. 12] (“TRO”). On May 25, 2018, the Court entered a Preliminary Injunction as to Defendant Ricardo Diaz [ECF No. 40]. On June 5, 2018, the FTC, Molina and Perfect Image Online moved the Court to enter a preliminary injunction [ECF No. 51] as to Molina and Perfect Image Online. The Court, having considered the parties’ written submissions and argument of

counsel, enters this Preliminary Injunction Order (“Order”) against Pillonato; Ramsey; Jones; Pocker; Pointbreak Media; DCP Marketing; Modern Spotlight; Modern Spotlight Group; Modern Internet Marketing; and Modern Source Media (collectively, “Defendants”).

### **FINDINGS OF FACT**

A. The Court has jurisdiction over the subject matter of this case. There is good cause to believe that it has jurisdiction over all Defendants, and venue is proper in this District.

B. In numerous instances, Defendants falsely claimed an affiliation with Google, threatened businesses with removal from Google’s search engine, promised small businesses unique keywords for which they would appear prominently in search results, and guaranteed first-place or first-page placement in Google search results.

C. There is good cause to believe Defendants have engaged in and are likely to engage in acts or practices that violate section 5(a) of the FTC Act, *see* 15 U.S.C. § 45(a), and that the FTC is therefore likely to prevail on the merits of this action. As demonstrated by Defendants’ business records; Defendants’ banking and payment processing records; declarations/testimony from a Google employee; consumer declarations/testimony; transcripts of calls; records of undercover calls and an undercover purchase; and the additional documentation filed by the FTC, the FTC has established a likelihood of success in showing that Defendants (1) used false claims of affiliation with Google, false threats of removal from Google, and false promises of prominent placement in search results to sell Google listing and search engine optimization services; and (2) without authorization, took money from consumers’ bank accounts.

D. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of the FTC Act unless Defendants continue to be restrained and enjoined by order of this Court.

E. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers — including monetary restitution, rescission, disgorgement, or refunds — will occur from the sale, transfer, destruction, or other disposition or concealment by Defendants of their Assets or records, unless Defendants continue to be restrained and enjoined by order of this Court.

F. Good cause exists for continuing the appointment of the Receiver over the Receivership Entities, and continuing to freeze Defendants' Assets.

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

H. The Court has authority to issue this Order pursuant to section 13(b) of the FTC Act, *see* 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, *see* 28 U.S.C. § 1651.

I. No security is required of any agency of the United States for issuance of a preliminary injunction. *See* Fed. R. Civ. P. 65(c).

### **DEFINITIONS**

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

A. “**Asset**” means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.

B. “**Corporate Defendant(s)**” means Pointbreak Media; DCP Marketing; Modern Spotlight; Modern Spotlight Group; Modern Internet Marketing; Modern Source Media; and each of their subsidiaries, affiliates, successors, and assigns, individually, collectively, or in any combination.

C. “**Defendant(s)**” means Corporate Defendants; as well as Pillonato; Ramsey; Jones; and Pocker, individually or collectively.

D. “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings; drawings; graphs; charts; photographs; sound and video recordings; images; Internet sites; web pages; websites; electronic correspondence, including e-mail and instant messages; contracts; accounting data; advertisements; File Transfer Protocol Logs; Server Access Logs; books; written or printed records; handwritten notes; telephone logs; telephone scripts; receipt books; ledgers; personal and business canceled checks and check registers; bank statements; appointment books; computer records; customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems; and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

E. “**Electronic Data Host**” means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes, but is not limited to, any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. “**Individual Defendant(s)**” means Pillonato; Ramsey; Jones; and Pocker. Individual Defendant(s) refers to these people individually, collectively, or in any combination.

G. “**Receiver**” means the receiver appointed in Section XI of this Order and any deputy receivers named by the receiver.

H. “**Receivership Entities**” means Corporate Defendants, as well as any other entity that the Receiver determines is controlled or owned by any Defendant and has (a) conducted any business related to Defendants’ marketing of Google listing and search engine optimization services, (b) commingled or pooled assets with any Defendant, or (c) otherwise participated in the transfer or receipt of Assets derived from any activity that is the subject of the Complaint in this matter.

## **ORDER**

### **I. PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that Defendants and their officers; agents; employees; and attorneys; and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are preliminarily restrained and enjoined from:

A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

1. That Defendants are authorized by, or affiliated with, Google or another third party;
2. That consumers’ businesses are in imminent danger of being marked permanently closed by Google or any other third party, or removed from

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Google search results or any other internet search results, because consumers have not “claimed and verified” those businesses;

3. That Defendants, as part of claiming and verifying the consumers’ businesses, can assign certain keywords to those businesses that will result in the prominent display of the businesses’ websites or listings;
4. That Defendants can guarantee prominent, first-place, or first-page placement in Google search results or any other internet search results; and
5. Any other fact material to consumers concerning any good or service, including but not limited to: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

B. Debiting or causing consumers’ bank or financial accounts to be debited, or assessing any fee or charge against consumers or their bank or financial accounts, without first obtaining the consumers’ express informed consent for the purchase of the good or service and for the debit, charge, or fee.

**II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants, Defendants’ officers; agents; employees; and attorneys; and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby preliminarily restrained and enjoined from: disclosing; using; or benefitting from customer information; including the name; address; telephone number; email address; social security number; other identifying information; or any data that enables access to a customer’s account (including a credit card, bank account, or other financial account), that any Defendant obtained

prior to entry of this Order in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Defendants may disclose such identifying information to a law enforcement agency, to their attorneys as required for their defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

### **III. ASSET FREEZE**

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

A. Transferring; liquidating; converting; encumbering; pledging; loaning; selling; concealing; dissipating; disbursing; assigning; relinquishing; spending; withdrawing; granting a lien or security interest or other interest in, or otherwise disposing of any Assets that are:

1. owned or controlled, directly or indirectly, by any Defendant;
2. held, in part or in whole, for the benefit of any Defendant;
3. in the actual or constructive possession of any Defendant; or
4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant or subject to access by any Defendant,

except as necessary to comply with written requests from the Receiver acting pursuant to its authority under this Order;

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or of which any Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which any Defendant is, or was on the date that this Order was signed, an authorized signor; or

D. Cashing any checks or depositing any money orders or cash that is received from, or that draws on a bank or financial account belonging to, consumers, clients, or customers of any Defendant.

The Assets affected by this Section include: (1) all Assets of Defendants as of the time this Order is entered; and (2) Assets obtained by Defendants after this Order is entered if those Assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign Assets specifically required by this Order.

#### **IV. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES**

**IT IS FURTHER ORDERED** that any financial or brokerage institution; Electronic Data Host; credit card processor; payment processor; merchant bank; acquiring bank; independent sales organization; third-party processor; payment gateway; insurance company; business entity; or person who receives actual notice of this Order (by service or otherwise) that: (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of any Defendant or any Asset that is: owned or controlled, directly or indirectly, by any Defendant; held, in part or in whole, for the benefit of any Defendant; in the actual or



constructive possession of any Defendant; or owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant; (b) holds, controls, or maintains custody, through an account or otherwise, of any Document or Asset associated with credits, debits, or charges made on behalf of any Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third-party processors, payment gateways, insurance companies, or other entities; (c) has extended credit to any Defendant, including through a credit card account; or (d) has held, controlled, or maintained custody of any such Document, Asset, or account at any time since the date of entry of this Order, shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or Asset, as well as all Documents or other property related to such Assets, except by further order of the Court; provided, however, that this provision does not prohibit an Individual Defendant from incurring charges on a personal credit card established prior to entry of this Order, up to the pre-existing credit limit;

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

C. Immediately provide the FTC's counsel and the Receiver to the extent not already provided pursuant to the TRO, a sworn statement setting forth:

1. The identification number of each such account or Asset;

2. The balance of each such account, or a description of the nature and value of each 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Defendant, or is otherwise subject to access by any Defendant.

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel and the Receiver with copies of all records or other Documents pertaining to each account or Asset, including originals or copies of account applications; account statements; signature cards; checks; drafts; deposit tickets; transfers to and from the accounts, including wire transfers and wire transfer instructions; all other debit and credit instruments or slips; currency transaction reports; 1099 forms; and all logs and records pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.

This Section does not prohibit any transfers to the Receiver or repatriation of foreign Assets specifically required by this Order.

## **V. FINANCIAL DISCLOSURES**

**IT IS FURTHER ORDERED** that any Defendant that has not yet provided financial statements in accordance with Section V of the TRO, shall immediately prepare and deliver to the FTC's counsel and the Receiver:

A. Completed financial statements on the forms attached to this Order as **Attachment A** ("Financial Statement of Individual Defendant") for each Individual Defendant,

and **Attachment B** (“Financial Statement of Corporate Defendant”) for each Corporate Defendant and for each business entity under which an Individual Defendant conducts business, controls, or for which they are an officer, director, member, or manager; and

B. Completed **Attachment C** (“IRS Form 4506, Request for Copy of a Tax Return”) for each Individual and Corporate Defendant.

## **VI. FOREIGN ASSET REPATRIATION**

**IT IS FURTHER ORDERED** that to the extent not already completed pursuant to the TRO, each Defendant shall immediately:

A. Provide the FTC’s counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all Assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of any Defendant; (2) held by any person or entity for the benefit of any Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant;

B. Take all steps necessary to provide the FTC’s counsel and Receiver access to all Documents and records that may be held by third parties located outside of the territorial United States, including signing the **Completed Attachment D** (“Consent to Release Financial Records”);

C. Transfer to the territory of the United States and all Documents and Assets located in foreign countries which are: (1) titled in the name, individually or jointly, of any Defendant; (2) held by any person or entity for the benefit of any Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly

owned, managed or controlled by any Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant; and

D. On the same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or Assets; and (2) serve this Order on any such financial institution or other entity.

## **VII. NON-INTERFERENCE WITH REPATRIATION**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers; agents; employees; and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby preliminarily 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 this Order, including, but not limited to:

A. Sending any communication 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 Defendants' Assets have been fully repatriated pursuant to 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 that all Defendants' Assets have been fully repatriated pursuant to this Order.

## **VIII. CONSUMER CREDIT REPORTS**

**IT IS FURTHER ORDERED** that the FTC may obtain credit reports concerning any Defendants pursuant to section 604(a)(1) of the Fair Credit Reporting Act, *see* 15 U.S.C. §

1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports are requested shall provide them to the FTC.

**IX. PRESERVATION OF RECORDS**

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

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, Assets, or business or personal finances of any Defendant; (2) the business practices or finances of entities directly or indirectly under the control of any Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with any other 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 Defendants' Assets.

**X. REPORT OF NEW BUSINESS ACTIVITY**

**IT IS FURTHER ORDERED** that Defendants and their officers; agents; employees; and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby preliminarily restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver with a written statement disclosing: (1) the name of the business entity;

(2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

**XI. RECEIVER**

**IT IS FURTHER ORDERED** that Jonathan E. Perlman, Esq., shall continue as Receiver of the Receivership Entities with full powers of an equity receiver. The Receiver shall be solely the agent of the Court in acting as Receiver under this Order.

**XII. DUTIES AND AUTHORITY OF RECEIVER**

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

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

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

C. Conserve, hold, manage, and prevent the loss of all Assets of the Receivership Entities, and perform all acts necessary or advisable to preserve the value of those Assets. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to the Receivership Entities. The Receiver shall have full power to sue for, collect, and receive, all Assets of the Receivership Entities and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the Receivership Entities. Provided, however, that the Receiver shall not attempt to collect any amount from a consumer, without prior Court approval, if the Receiver believes the consumer's debt to the

Receivership Entities has resulted from the deceptive acts or practices or other violations of law alleged in the Complaint in this matter;

D. Obtain, conserve, hold, manage, and prevent the loss of all Documents of the Receivership Entities, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Receivership Entities that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts), by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Receivership Entities stored onsite or remotely; perform all acts necessary or advisable to preserve such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or remotely.

E. 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;

F. 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, and to incur, or authorize the making of, such agreements as may be necessary and advisable in discharging his or her duties as Receiver. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Entities prior to May 8, 2018, except payments that the Receiver deems necessary or advisable to secure Assets of the Receivership Entities, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the Receivership Entities operate their businesses. Such steps may include, but are

not limited to, any of the following, as the Receiver deems necessary or advisable: (1) securing the location by changing the locks and alarm codes and disconnecting any internet access or other means of access to the computers, servers, internal networks, or other records maintained at that location; and (2) requiring any persons present at the location to leave the premises, to provide the Receiver with proof of identification, and/or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises Documents or Assets of the Receivership Entities.

H. Take all steps necessary to prevent the modification, destruction, or erasure of any web page or website registered to and operated, in whole or in part, by any Defendant or Receivership Entities, and to provide access to all such web page or websites to the FTC's representatives, agents, and assistants, as well as Defendants and their representatives;

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

J. Prevent the inequitable distribution of Assets and determine, adjust, and protect the interests of consumers who have transacted business with the Receivership Entities;

K. Make an accounting, as soon as practicable, of the Assets and financial condition of the receivership estate, file the accounting with the Court, and deliver copies thereof to all parties;

L. Institute; compromise; adjust; appear in; intervene in; defend; dispose of; or otherwise become party to any legal action 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 Entities or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;



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

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

O. Open all mail directed to or received by or at the premises, or post office or private or commercial mail boxes of the Receivership Entities, and inspect all mail opened prior to May 9, 2018, to determine whether items or information therein fall within the mandates of this Order. In connection therewith, the Receiver is authorized to instruct the United States Postmaster and anyone in possession or control of a private or commercial mailbox to hold and/or reroute mail directed to any of the Receivership Entities. The Defendants are directed not to open a new mailbox or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the United States mail, a private mail depository, or courier service;

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

Q. Allow the FTC's representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Receivership Entities, or any other premises where the Receivership Entities conduct business. The purpose of this access shall be to inspect and copy any and all books, records, Documents, accounts, and other property owned by, or in the possession of, the Receivership Entities or their

agents. The Receiver shall have the sole discretion to determine the time, manner, and reasonable conditions of such access;

R. Allow the FTC's representatives, agents, and assistants, as well as Defendants and their representatives reasonable access to all Documents in the possession, custody, or control of the Receivership Entities;

S. Cooperate with reasonable requests for information or assistance from any state or federal civil or criminal law enforcement agency;

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

U. If the Receiver identifies a nonparty entity as a Receivership Entity, promptly notify the entity as well as the parties, and inform the entity that it can challenge the Receiver's determination by filing a motion with the Court. Provided, however, that the Receiver may delay providing such notice until the Receiver has established control of the nonparty entity and its Assets and records, if the Receiver determines that notice to the entity or the parties before the Receiver establishes control over the entity may result in the destruction of records, dissipation of Assets, or any other obstruction of the Receiver's control of the entity; and

V. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Receivership Entities' web pages or websites relating to the activities alleged in the Complaint cannot be accessed by the public, or are modified for consumer education and/or informational purposes, and take all steps necessary to ensure that any telephone numbers associated with the Receivership Entities cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

### **XIII. RECEIVER'S EXPEDITED DISCOVERY**

**IT IS FURTHER ORDERED** that, notwithstanding the provisions of the Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(A)(iii), and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, the Receiver is granted leave, at any time after service of this Order, to conduct limited expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' Assets; (2) the nature, location, and extent of Defendants' business transactions and operations; (3) Documents reflecting Defendants' business transactions and operations; or (4) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

C. The Receiver may take the deposition of parties and non-parties. Five (5) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Rules 30(a)(2)(A)(ii) and 31(a)(2)(A)(ii) of the Federal Rules of Civil Procedure regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone or other remote electronic means;

D. The Receiver may serve upon parties requests for production of Documents or inspection that require production or inspection within five (5) days of service, provided, however, that three (3) days of notice shall be deemed sufficient for the production of any such Documents that are maintained or stored only in an electronic format.

E. The Receiver may serve upon parties interrogatories that require response within five (5) days after service of such interrogatories;

F. The Receiver may serve subpoenas upon non-parties that direct production or inspection within five (5) days of service;

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

H. Any expedited discovery taken pursuant to this Section is in addition to, and is not subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure and the Local Rules of the Southern District of Florida. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Rules 26(d) and (f) of the Federal Rules of Civil Procedure.

#### **XIV. RECEIVER'S REPORTS**

**IT IS FURTHER ORDERED** that the Receiver must:

A. File a report with the Court by December 6, 2018, and every six (6) months following that report, to include the following information:

1. A summary of the Receiver's operations;
2. An inventory of the receivership Assets and their estimated value;
3. A schedule of all the Receiver's receipts and disbursements;
4. A list of all known creditors with their addresses and the amounts of their claims;
5. The steps the Receiver intends to take in the future to protect receivership Assets, recover receivership Assets from third parties, and adjust receivership liabilities;
6. The Receiver's recommendation for a continuation or discontinuation of the Receivership, or for changes to the Receivership, and the reasons for the recommendations; and
7. Any other matters which the Receiver believes should be brought to the Court's attention.

**XV. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

**IT IS FURTHER ORDERED** that, to the extent not already completed pursuant to the TRO, Defendants and any other person with possession, custody or control of property of, or records relating to, the Receivership Entities shall, upon notice of this Order by personal service or otherwise, fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the Assets and Documents of the Receivership Entities and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All Assets held by or for the benefit of the Receivership Entities;
- B. All Documents of or pertaining to the Receivership Entities;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Receivership Entities;
- D. All Assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Receivership Entities; and
- E. All keys, codes, user names and passwords necessary to gain or to secure access to any Assets or Documents of or pertaining to the Receivership Entities, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

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

**XVI. PROVISION OF INFORMATION TO RECEIVER**

**IT IS FURTHER ORDERED** that, to the extent not already completed pursuant to the TRO, Defendants shall immediately provide to the Receiver:

A. A list of all Assets and accounts of the Receivership Entities that are held in any name other than the name of a Receivership Entity, or by any person or entity other than a Receivership Entity;

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

C. A description of any Documents covered by attorney-client privilege or attorney work product, including files where such Documents are likely to be located, authors or recipients of such Documents, and search terms likely to identify such electronic documents.

## **XVII. COOPERATION WITH THE RECEIVER**

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

**XVIII. NON-INTERFERENCE WITH THE RECEIVER**

**IT IS FURTHER ORDERED** that Defendants; the Receivership Entities; Defendants' or Receivership Entities' officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby preliminarily restrained and enjoined from directly or indirectly:

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

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

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 Entities; or

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 the Court.

**XIX. STAY OF ACTIONS**

**IT IS FURTHER ORDERED** that, except by leave of the Court, during the pendency of the receivership ordered herein, Defendants, Defendants' officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and their corporations, companies, subsidiaries, divisions, or affiliates, 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 the Court over the Assets or Documents of the Receivership Entities, including, but not limited to:

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Receivership Entities, including the issuance or employment of process against the Receivership Entities, 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 Entities, taking or attempting to take possession, custody, or control of any Asset of the Receivership Entities; or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of the Receivership Entities, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise.

D. Provided, however, that this Order does not stay: (1) the commencement or continuation of a criminal action or proceeding; (2) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (3) 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.

**XX. 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 Entities. 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 by July 9, 2018, in accordance with Section XVIII of the TRO. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

**XXI. RECEIVER'S BOND**

**IT IS FURTHER ORDERED** that the Receiver is not required to file with the Clerk of the Court a bond until further order of 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.

**XXII. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each affiliate; telemarketer; marketer; sales entity; successor; assign; member; officer; director; employee; agent; independent contractor; client; attorney; spouse; subsidiary; division; and representative of any Defendant, and shall, thereafter immediately provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the name(s), physical address(es), phone number(s), and email address(es) for each such person or entity who received a copy of the Order. Furthermore, Defendants shall not take any action that would encourage officers; agents; members; directors; employees; salespersons; independent contractors; attorneys; subsidiaries; affiliates; successors; 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.

**IT IS FURTHER ORDERED** that nothing in this Order limits or modifies any other court order entered against any Defendant or entities controlled or owned by any Defendant, including orders in the following cases: *FTC v. Aaron Michael Jones, et al.*, No. 17-cv-00058-DOC-JCG (C.D. Cal.); *FTC v. Justin Ramsey, et al.*, No. 17-cv-80032-KAM (S.D. Fla.); *Office of the Att'y Gen., Dep't of Legal Affairs, State of Fla. v. Dustin Pillonato, et al.*, No. 2015-CA-

002751 (Fla. 15th Cir. Ct.); and *Office of the Att’y Gen., State of Fla., Dep’t of Legal Affairs v. Telcom Experts LLC, et al.*, No. 2017-CA-004449 (Fla. 15th Cir. Ct.).

**XXIII. SERVICE OF THIS ORDER**

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

**XXIV. CORRESPONDENCE AND SERVICE ON THE FTC**


**IT IS FURTHER ORDERED** that, for the purpose of this Order, all correspondence and service of papers on the FTC shall be addressed to:

Evan Mendelson  
Christopher Erickson  
Brian Welke  
600 Pennsylvania Avenue, NW  
Mailstop CC-9528  
Washington, DC 20580  
Phone: (202) 326-3320  
Fax: (202) 326-3197  
emendelson@ftc.gov  
cerickson@ftc.gov  
bwelke@ftc.gov

**XXV. RETENTION OF JURISDICTION**

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

**DONE AND ORDERED** in Miami, Florida, this 7th day of June, 2018.

  
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**CECILIA M. ALTONAGA**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record