

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. 3:08-cv-1001-J-34JRK

LATRESE & KEVIN ENTERPRISES INC., a Florida corporation, also doing business as HARGRAVE & ASSOCIATES FINANCIAL SOLUTIONS, LATRESE HARGRAVE, also known as, LATRESE V. WILLIAMS, individually and as an officer of LATRESE & KEVIN ENTERPRISES INC., and KEVIN HARGRAVE, SR., individually and as an officer of LATRESE & KEVIN ENTERPRISES INC.,

Defendants.

ORDER OF CIVIL CONTEMPT

This case is before the Court following an August 28, 2012 hearing at which Defendants Latrese Hargrave and Kevin Hargrave, Sr. (“the Hargraves”), and their three companies that are acting in concert with them, BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and Kevtrese Enterprises Inc. (collectively “Contempt Defendants”) were directed to appear and show cause why they should not be held in civil contempt for violating the Court’s Order for Permanent Injunction and Other Equitable Relief (Doc. 144; Permanent Injunction), entered January 27, 2010. (Doc. 213;

Order to Show Cause). The transcript of the August 28, 2012 hearing (“Show Cause Hearing”) is incorporated in this Order.

I. Background

The Federal Trade Commission (“FTC”) brought this civil enforcement action on October 20, 2008, under the authority of the Federal Trade Commission Act (“FTCA”), 15 U.S.C. § 45(a), the Credit Repair Organization Act (“CROA”), 15 U.S.C. § 1679h(b), and the Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 and the FTC’s Telemarketing Sales Rules (“TSR”), 16 C.F.R. part 310. (Doc. 1; Complaint; Doc. 119; Amended Complaint). Named as defendants were Latrese & Kevin Enterprises, Inc., doing business as Hargrave & Associates Financial Solutions; Latrese Hargrave, individually and as an officer of Latrese & Kevin Enterprises Inc.; and Kevin Hargrave, Sr., individually and as an officer of Latrese & Kevin Enterprises Inc. The FTC asked the Court to permanently enjoin Defendants from deceptively selling credit-repair services, credit cards, or any other credit-related product or service in violation of federal law, find the Defendants liable for violating federal law, and order more than \$7 million in restitution payments to Defendants’ customers. The Court entered a Stipulated Preliminary Injunction With Asset Freeze and Other Equitable Relief on November 3, 2008. (Doc. 26; Stipulated Preliminary Injunction). On January 27, 2010, the Court granted the FTC’s motion for summary judgment, finding the evidence that Defendants had violated federal law “overwhelming.” (Doc. 145 at 6; Summary Judgment Order). The Court determined that the undisputed evidence established that Defendants had violated the FTCA, CROA, and telemarketing regulations, and determined that the corporate and individual Defendants

could be held liable. Id. at 6-9. Additionally, the Court found that Defendants had failed to rebut the FTC's damages calculations, and announced it would order injunctive and monetary relief in the amount of \$7,443,732. Id. at 9.

On January 27, 2010, the Court entered an Order For Permanent Injunction and Other Equitable Relief. (Doc. 144; Permanent Injunction). Included in the injunctive relief order was a prohibition of certain business activities that violate the FTCA and CROA. Specifically, relevant to the current proceedings, the Permanent Injunction prohibited Defendants and "those persons in active concert or participation with any of them who receive actual notice of this Order," from advertising, marketing or offering for sale any good or service by "misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

A. That Defendants can improve substantially consumers' credit profiles and credit scores by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete; . . .

in violation of the FTCA. Permanent Injunction § I.A. The Permanent Injunction also prohibited Defendants and "persons in active concert or participation with any of them," in connection with advertising, marketing, promotion, offering for sale, or sale of any credit repair service to consumers, from violating CROA:

A. By making or using untrue or misleading representations to induce consumers to purchase their services, including, but not limited to, misrepresenting that a credit repair organization can improve substantially consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete, in violation of Section 404(a)(3), 15 U.S.C. § 1679b(a)(3); or

B. By charging or receiving money or other valuable consideration for the performance of credit repair services, before such services are fully performed, in violation of Section 404(b), 15 U.S.C. § 1679b(b).

Id. §§ II.A. and B. The Court entered judgment against Defendants Latrese & Kevin Enterprises Inc. and the individual Defendants, Latrese Hargrave and Kevin Hargrave, Sr., jointly and severally, in the amount of \$7,443,732 for equitable monetary relief, including consumer redress and disgorgement. Id. VII.A.

On April 6, 2012, the FTC filed an Ex Parte Motion for a Temporary Restraining Order (Doc. 168; Motion), and voluminous exhibits in support. (See Docs. 172-174). In the Motion, the FTC alleged that the individual defendants, Kevin Hargrave, Sr. and Latrese Hargrave, and three companies acting in concert with the Hargraves, BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc., and Kevtrese Enterprises Inc. (collectively "Contempt Defendants") were violating Sections I.A and II.A and II.B of the Permanent Injunction. The Court conducted an ex parte hearing on April 6, 2012, denied without prejudice the Motion for a Temporary Restraining Order because of pleading deficiencies, and ordered the Motion and exhibits, and any re-filed Motion for TRO be filed and remain under seal, upon request of the FTC, until further order of the Court. (Doc. 176; 04/06/12 Order). On April 13, 2012, the FTC re-filed the Ex Parte Motion for Temporary Restraining Order (Doc. 178; Motion for TRO), and supporting exhibits (Docs. 184-186), as well as a Motion for An Order to Show Cause why the Contempt Defendants should not be held in civil contempt for violating the terms of the Permanent Injunction (Doc. 180; Motion for Order to Show Cause), and a Motion to Modify the Permanent Injunction (Doc. 181; Motion to Modify the Permanent Injunction), all filed under seal. On May 15, 2012, the Court

entered an Ex Parte Temporary Restraining Order With Asset Freeze and Other Equitable Relief (Doc. 189; TRO), and ordered that the TRO and filed documents be served on all Contempt Defendants. The Court scheduled a hearing to determine whether to convert the TRO into a Preliminary Injunction, and directed Contempt Defendants to file briefs, declarations or affidavits, and any other evidentiary materials regarding the FTC's request for a preliminary injunction. TRO at 24-25. Following service on Contempt Defendants on May 16, 2012, the Court ordered all documents be unsealed and placed in the public record. (Doc. 161; 05/21/12 Clerk's Minutes). On May 29, 2012, following a hearing at which counsel for the FTC and the Contempt Defendants presented argument, the Court converted the TRO into a Preliminary Injunction, pending resolution of the FTC's Motion for Order to Show Cause. (Doc. 193; 05/29/12 Clerk's Minutes). The Court entered the Preliminary Injunction With Asset Freeze and Other Equitable Relief on June 1, 2012. (Doc. 198; 06/01/12 Preliminary Injunction). Contempt Defendants filed a response to the Motion for Order to Show Cause on June 8, 2012. (Doc. 203; Defendants' Response).

On July 13, 2012, the Court granted the FTC's Motion for Order to Show Cause. The Court held that the evidence submitted by the FTC established a prima facie case of civil contempt, and that the Contempt Defendants had not refuted this evidence. Order to Show Cause at 3. The Court set the case for a two-day evidentiary hearing ("Show Cause Hearing"), commencing on August 28, 2012, at which Contempt Defendants were required to show cause why they should not be held in civil contempt for failure to comply with the requirements of the Permanent Injunction. Id. On August 15, 2012, Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave filed a document entitled "Defendants' Confession

of Judgment and Consent to Entry of Modified Final Order.” (Doc. 216; Confession of Judgment). In it, the Hargraves state:

Kevin Hargrave and Latrese Hargrave hereby confess Judgment herein and admit civil contempt for violating the provisions of the Permanent Injunction (Dkt. 144), in that Kevin Hargrave, Latrese Hargrave, BFS Financial Services, Inc., and Help My Credit Now, Inc., while under the obligations of the Final Judgment and Permanent Injunction (Dkts. 144; 146), violated the misrepresentations and service fee provisions of the Credit Repair Organizations Act (“CROA”), 15 U.S.C. section 1679. The Defendants further consent to the entry of the proposed Modified Final Order [referring to Doc. 181].

Confession of Judgment at 2. Both Kevin Hargrave, Sr. and Latrese Hargrave signed the Confession of Judgment “under penalty of perjury.” Id. at 2-3. The FTC responded, requesting that the Court find the Contempt Defendants in civil contempt for violating Sections I.A and II.A and B of the Permanent Injunction, based upon the Confession of Judgment, and to limit the scheduled evidentiary hearing “to establishing the amount of compensatory civil sanctions to be awarded to compensate injured consumers.” (Doc. 219 at 4; FTC Response to Confession of Judgment).

At the scheduled Show Cause Hearing on August 28, 2012, the Court noted that the Confession of Judgment was not signed on behalf of the Corporate Contempt Defendants, BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc., and Kevtrese Enterprises Inc., and thus did not bind them. Additionally, the Confession of Judgment named the Corporate Contempt Defendants incorrectly. Moreover, the Hargraves did not specifically admit in the Confession of Judgment that their conduct in violation of the Permanent Injunction constituted a violation of the FTCA as well as CROA.

For this reason, both individual Contempt Defendants - Kevin Hargrave, Sr. and Latrese Hargrave - testified at the Show Cause Hearing and admitted under oath on behalf of themselves and in their capacities as officers of Contempt Defendants BFS Empowerment Financial Services, Inc., Help My Credit Now Credit Services Inc., and Kevtrese Enterprises Inc., to being in civil contempt by violating Sections I.A and II.A and B of the Court's January 27, 2010 Permanent Injunction.¹ Additionally, both Kevin Hargrave, Sr. and Latrese Hargrave admitted under oath that \$6,385,816 is the amount of gross receipts derived from violation of the Court's Permanent Injunction, and that judgment should be entered in this amount against the individual and corporate Contempt Defendants jointly and severally. (See Doc. 224; 08/28/12 Clerk's Minutes). The FTC submitted a Receiver's report identifying \$6,385,816 in gross revenues received by Contempt Defendants from February 2010 through May 15, 2012. See Exhibit 174.

II. Civil Contempt

A. Standard of Review

District courts have inherent power to enforce compliance with their orders through civil contempt. E.g. Roadway Express, Inc. v. Piper, 447 U.S. 752, 764-65 (1980); FTC v. RCA Credit Servs., LLC, No. 8:08-cv-2062-T-27MAP, 2011 WL 5924969, at *1 (M.D. Fla. Oct. 5, 2011); FTC v. Slimamerica, No. 97-CIV-06072, 2011 WL 882109, at *3 (S.D. Fla. March 9, 2011); SEC v. Solow, 682 F. Supp.2d 1312, 1324 (S.D. Fla.), aff'd 396 F. App'x 635 (11th Cir. 2010). "A finding of civil contempt must be supported by clear and convincing

¹ Kevin Hargrave, Sr. is president of BFS Empowerment Financial Services, and Help My Credit Now Credit Services, Inc., and treasurer of Kevtrese Enterprises Inc. Latrese Hargrave is the president of Kevtrese Enterprises Inc.

evidence that “the allegedly violated order was valid and lawful; . . . the order was clear and unambiguous; and the . . . alleged violator had the ability to comply with the order.” FTC v. Leshin 618 F.3d 1221, 1232 (11th Cir. 2010)(citation omitted). Thus, the party seeking an order of civil contempt has the burden of demonstrating by clear and convincing proof “that 1) the allegedly violated order was valid and lawful; 2) the order was clear, definite and unambiguous; and 3) the alleged violator had the ability to comply with the order.” McGregor v. Chierico, 206 F.3d 1378, 1383 (11th Cir. 2000)(citation omitted). The evidence must also establish clearly and convincingly that the order was indeed violated. FTC v. Garden of Life, Inc., 845 F. Supp.2d 1328, 1331 (S.D. Fla. 2012); Ameriprise Fin. Servs., Inc. v. Lawton, No. 2:11-cv-573-FtM-29SPC, 2011 WL 6412424, at * 1 (M.D. Fla. Dec. 21, 2011); see also FTC v. Lane Labs-USA, Inc., 624 F.3d 575, 582 (3d Cir. 2010); SEC v. Solow, 682 F. Supp.2d at 1325; FTC v. Slimamerica, 2011 WL 882109, at *3; FTC v. RCA Credit Servs., LLC, 2011 WL 5924969, at *1. The absence of willfulness is not a defense to a charge of civil contempt. FTC v. Leshin, 618 F.3d at 1232. “[S]ubstantial, diligent, or good faith efforts are not enough; the only issue is compliance.” Id. “[I]n a civil contempt proceeding the question is not one of intent but whether the alleged contemnors have complied with the court’s order.” Id. at 1233 (citation omitted).

B. Discussion

The Court finds (and there is no dispute) that clear and convincing evidence demonstrates that the January 27, 2010 Permanent Injunction (Doc. 144) is a valid and lawful order properly entered by the Court. The record is clear and convincing, and the Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave admit, that the Contempt

Defendants had actual notice of the Permanent Injunction. The relevant portions of the Permanent Injunction are clear, definite and unambiguous. Additionally, inasmuch as the Contempt Defendants have admitted to violating the Permanent Injunction, the evidence clearly and convincingly demonstrates that they indeed had the ability to comply with the Permanent Injunction.

The facts and the record before the Court relevant to civil contempt consists of the Hargraves' sworn admissions on behalf of themselves and the corporate Contempt Defendants at the August 28, 2012 Show Cause Hearing, the Confession of Judgment, and the written evidence previously submitted by the FTC, which the Hargraves admitted under oath at the August 28, 2012 Show Cause Hearing, was competent evidence establishing that each of the Contempt Defendants has violated the terms of the Permanent Injunction.² This evidence and the record demonstrate by clear and convincing evidence that each of the Contempt Defendants violated sections I.A, II.A and II.B of the January 27, 2010 Permanent Injunction. (Doc. 144).

III. Remedies

"District courts are afforded wide discretion in fashioning an equitable remedy for civil contempt." McGregor, 206 F.3d at 1385 n.5 (citing United States v. City of Miami, 195 F.3d 1292, 1298 (11th Cir. 1999)). "The sanctions may serve to either (1) coerce the contemnor to comply with a court order, or (2) compensate a party for losses suffered as a result of the contemnor's act." Id. The FTCA permits courts to order equitable monetary relief in the form

² The Court specifically incorporates the reasoning stated during the August 28, 2012 Show Cause Hearing.

of either restitution (consumer redress) or disgorgement. FTC v. Gem Merch Corp., 87 F.3d 466, 469 (11th Cir. 1996); FTC v. 1st Guar. Mortg. Corp., No. 09-cv-61840, 2011 WL 1233207, at *21 (S.D. Fla. March 30, 2011); FTC v. Direct Mktg. Concepts, Inc., 648 F. Supp.2d 202, 213-14 (D. Mass. 2009), aff'd, 624 F.3d 1 (1st Cir. 2010). “Restitution” to consumers is to “compensate them for the harm caused by the defendants’ misrepresentations,” FTC v. 1st Guar. Mortg. Corp., 2011 WL 1233207, at *22, and is “measured by the amount of money paid by the consumers, less any refunds made.” FTC v. Direct Mktg. Concepts, 648 F. Supp.2d at 213-14; see also FTC v. Peoples Credit First, LLC, No. 8:03-CV-2353-T, 2005 WL 3468588, at *7 n.18 (M.D. Fla. Dec. 18, 2005), aff'd, 244 F. App’x 942 (11th Cir. 2007). “Disgorgement” is designed to “deprive the wrongdoer of his ill-gotten gain.” FTC v. Gem Merch. Corp., 87 F.3d at 470 (citation omitted); FTC v. 1st Guar. Mortg. Corp., 2011 WL 1233207, at *21. “Damages for consumer injury are calculated by determining the gross sales.” FTC v. 1st Guar. Mortg. Corp., 2011 WL 1233207, at *22 (citing McGregor, 206 F.3d at 1386-87); see also FTC v. SlimAmerica, Inc., 77 F. Supp.2d 1263, 1276 (S.D. Fla. 1999)(“[t]he appropriate measure for redress is the aggregate amount paid by consumers, less refunds made by defendants”).

The FTC requests that the Court enter an order awarding “compensatory civil sanctions . . . to compensate injured consumers.” FTC Response to Confession of Judgment at 4; see also Show Cause Hearing. The record, including the Temporary Receiver’s report regarding bank records submitted as evidence by the FTC, Ex. 174, and the sworn testimony of Contempt Defendants Latrese Hargrave and Kevin Hargrave, Sr., establishes by clear and convincing evidence that the Contempt Defendants collected from

consumers \$6,385,816 in gross receipts as a result of Contempt Defendants' violation of the Court's Permanent Injunction. The Court finds that this is an appropriate amount of civil compensatory sanctions to be exacted against Contempt Defendants Latrese Hargrave, Kevin Hargrave, Sr., BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and Kevtrese Enterprises Inc., jointly and severally, as an equitable remedy for their civil contempt.

Accordingly, it is hereby

ORDERED:

1. Contempt Defendants Latrese Hargrave, Kevin Hargrave, Sr., BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc., and Kevtrese Enterprises Inc. are each found to be in civil contempt for violating the Court's Permanent Injunction. (Doc. 144).

2. Judgment is entered against Contempt Defendants Latrese Hargrave, Kevin Hargrave, Sr., BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc., and Kevtrese Enterprises Inc., jointly and severally, in the amount of six million, three hundred eighty-five thousand, eight hundred sixteen dollars (\$6,385,816) in equitable monetary relief, including consumer redress and disgorgement, for Contempt Defendants' conduct in violation of the provisions of the Permanent Injunction.³

A. Contempt Defendants shall pay the FTC \$6,385,816, by electronic funds transfer in accordance with instructions provided by the FTC,

³ This amount is in addition to the \$7,443,732 judgment for equitable monetary relief, including consumer redress and disgorgement previously ordered by the Court as part of the Permanent Injunction, Section VII, and in the Modified Permanent Injunction, Section VII, to be entered herewith.

no later than thirty (30) days after the date of this Order. If they fail to pay, Contempt Defendants are hereby notified that they may be sanctioned for civil contempt.

B. In the event of default on any obligation to make payment under this Order, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue on the unpaid balance from the date of default to the date of payment.

C. All funds paid to the FTC, or its agent, pursuant to this Order, and all net proceeds from sales of assets transferred to the FTC or its agent pursuant to this Order, shall be deposited into a fund administered by the FTC or its agent, to be used for consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable, or that funds remain after redress is completed, any funds not used for consumer redress shall be deposited in the United States Treasury as disgorgement. Contempt Defendants shall have no right to challenge the FTC's choice of remedies under this Paragraph.

D. Contempt Defendants shall relinquish all dominion, control, and title to the funds paid and property transferred to the FTC. Contempt Defendants shall make no claim to or demand for the return of the funds or property, directly or indirectly, through counsel or otherwise.

E. In partial satisfaction of this Judgment, Contempt Defendants shall relinquish all dominion, control and title to all frozen assets and property,

held on behalf of the FTC pursuant to the Court's Temporary Restraining Order entered May 15, 2012, and Preliminary Injunction entered June 1, 2012, (Doc. 189; Temporary Restraining Order; and Doc. 198; Preliminary Injunction), and/or held by the Temporary Receiver appointed in this matter on May 15, 2012. (Temporary Restraining Order §§ 5-9). Contempt Defendants and/or Defendants' counsel shall, within fifteen (15) days of the date of this Order, execute any documents necessary to allow the Temporary Receiver to obtain complete dominion, title, and control over any assets or property held by the Receiver, or to accomplish transfer of title to the FTC. Contempt Defendants shall take no action to diminish the value of such assets, and shall make no claim to or demand for the return of any assets, directly or indirectly, through counsel or otherwise.

F. In its sole discretion, the FTC shall retain the right to decline transfer or receipt of any assets pursuant to this Section.

G. The Temporary Receiver and the FTC and its agents are authorized to sell any assets transferred to them pursuant to this Section and to pay from sale proceeds any attendant expenses or expenses for the storage, maintenance and insuring of such assets.

H. Contempt Defendants shall immediately transfer to the FTC any tax refund that they may have received or receive for taxes paid in 2010, 2011 and 2012.

I. In accordance with 31 U.S.C. § 7701, Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave are required, unless they have already done so, to furnish to the FTC their taxpayer identification numbers (social security numbers or employer identification numbers), if any, within thirty (30) days of the date of this Order, which shall be used for the purposes of collecting and reporting on any delinquent amount arising out of Defendants' relationship with the government.

J. Contempt Defendants Kevin Hargrave Sr. and Latrese Hargrave shall each, within thirty (30) days of the date of this Order, provide the FTC with an explanation, in the form of a declaration or affidavit which is true and accurate and sworn under penalty of perjury, setting forth in detail the disposition of the \$6,385,816 in gross receipts received by Contempt Defendants Latrese Hargrave, Kevin Hargrave, Sr., BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and/or Kevtrese Enterprises Inc., jointly and severally, from consumers after January 27, 2010, and how Contempt Defendants have subsequently disbursed, transferred, or spent those funds.

K. Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave shall prepare and serve on counsel for FTC, within sixty (60) days of the date of this Order, and updated every six months thereafter until satisfaction of this Judgment, a completed report and financial statement on the Form attached

to this Order as Attachment A, which is true and accurate and sworn under penalty of perjury, setting forth in detail:

1. Their then-current address, mailing addresses, and telephone numbers;

2. Their then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business or entity that he or she is affiliated with, employed by, or performs services for, with or without compensation;

3. Their income and expenses, including all corporations, partnerships, trusts or other entities that each Contempt Defendant owns, controls, or is associated with in any capacity, jointly or individually.

L. For purposes of this Order, Defendants shall, unless otherwise directed by the FTC's authorized representatives, send by overnight courier all reports and notifications required by this Order to the FTC to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
Re: FTC v. Latrese & Kevin Enterprises Inc., et al.
Civil Action No. 3:08-cv-01001-MMH-JRK

Provided, that in lieu of overnight courier, Defendants may send such reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of such report or notification to the FTC at: DEBrief@ftc.gov.

M. In partial satisfaction of the compensatory civil contempt sanction set forth above, any law firm, financial or brokerage institution, escrow agent, title company, commodity trading company, automated clearing house, network transaction processor, business entity, or person that holds, controls, or maintains custody of any account or asset of, on behalf of, or for the benefit of Contempt Defendants, shall turn over such account or asset, including but not limited to the account of Kevin Hargrave, Sr., at First Federal Bank of Florida with an account number ending in 8177, to the Temporary Receiver, within thirty (30) days of receiving notice of this Order by any means, including but not limited to via facsimile. In the event the Temporary Receiver has completed his duties, such transfer shall be to the FTC.

3. The freeze on the assets of Contempt Defendants effected by the Temporary Restraining Order and the Preliminary Injunction shall remain in effect until the compensatory civil sanction ordered herein is satisfied, provided, however, that Contempt Defendants, with the express written consent of counsel for the FTC may transfer funds to the extent necessary to satisfy the purposes of this Order.

4. The Temporary Receiver, Daniel Edelman, shall wind down the affairs and marshal the records and assets of Contempt Defendants. Within ninety (90) days of the date of this Order, the Receiver shall file a final report to this Court describing the process of winding down the businesses of BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and Kevtrese Enterprises Inc., and the scope of the Receiver's activities.

A. Within thirty (30) days of the date of this Order, Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave shall provide the Temporary Receiver with a list of records needed by them to prepare tax returns or filings on behalf of themselves and the other Contempt Defendants. Within sixty (60) days of the date of this Order, the Temporary Receiver shall provide Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave with access to the records they request in compliance with this provision, if such records can be located by the Temporary Receiver with reasonable efforts. Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave are required to cooperate with the Temporary Receiver in locating any records they request. In the event an appeal is taken, the Temporary Receiver shall not release any records until any such appeal is completed.

B. Within sixty (60) days of the date of this Order, the Temporary Receiver shall provide the FTC with access to records allowing the FTC to determine the name, address, telephone number and other contact information of customers of Contempt Defendants, BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and Kevtrese Enterprises Inc., and the amount of money paid by such customers to those entities for credit repair services after January 27, 2010. Contempt Defendants Kevin Hargrave, Sr. and Latrese Hargrave are required to cooperate with the Temporary Receiver and the FTC in locating these records. Such cooperation shall include, but is not limited to, providing the Temporary Receiver and the FTC

with all information necessary to locate and access electronic records maintained by or on behalf of the Contempt Defendants.

C. Upon compliance with the provisions of this Section, and upon completion of his duties, the Temporary Receiver shall notify the FTC that all records of the Contempt Defendants that remain in the Temporary Receiver's possession, custody or control, are available to the FTC for its pick-up for disposal of said records, or for the FTC to make arrangements for the disposal of said records, within 30 days of said notification. Records containing sensitive customer information (including but not limited to Social Security numbers, financial account numbers, or information concerning a person's credit or debit card, checking, savings, money market, stock, commodities, utilities, or mortgage loan accounts, as well as any document showing an individual's name or address or phone number in combination with the individual's date of birth, driver's license number or other state identification number or a foreign country equivalent, or passport number), shall be disposed of by the FTC by reasonable means which protect against unauthorized access or use of such information. Such reasonable means may include burning, pulverizing or shredding of paper documents, and destroying or erasing electronic media.

D. The Temporary Receiver and the FTC may disclose, however, records to the extent requested by a government agency or required by a law, regulation, or court order.

E. The Temporary Receiver, and all personnel hired by the Temporary Receiver as previously authorized by the Court, shall be entitled to reasonable compensation for the duties performed pursuant to this Order, and for the cost of the actual out-of-pocket expenses incurred by them, from the assets now held by the Temporary Receiver or the Contempt Defendants, or in possession or control of, or which may be received by, the Contempt Defendants, BFS Empowerment Financial Services Inc., Help My Credit Now Credit Services Inc. and Kevtrese Enterprises Inc. Within ninety (90) days of the date of this Order, the Temporary Receiver shall file with the Court and serve on the parties a final accounting and request for payment of such reasonable compensation.

F. Upon the Court's approval of the Temporary Receiver's final report and request for payment, the Temporary Receiver shall recover said approved payment from the Contempt Defendants' assets currently held by the Temporary Receiver, and shall transfer any remaining funds of Contempt Defendants to the FTC in partial satisfaction of the compensatory civil sanction ordered herein, and the Temporary Receivership shall terminate.

5. Contempt Defendants Kevin Hargrave, Sr., and Latrese Hargrave shall, within five (5) business days of receipt of this Order, file with the Court a sworn statement acknowledging their receipt of this Order.

6. The Court announced at the Show Cause Hearing that Plaintiff's Motion and Incorporated Memorandum in Support of Plaintiff's Motion to Modify the Order for Permanent

Injunction and Other Equitable Relief Against Kevin Hargrave and Latrese Hargrave (Doc. 181) is **GRANTED**. See 08/28/12 Clerk's Minutes. As such, contemporaneously with the filing of this Order, the Court will enter a Modified Final Judgment and Order for Permanent Injunction and Other Equitable Relief (Modified Permanent Injunction) prohibiting the Hargraves from participating in credit repair services in the future, substantially in the form requested by the FTC, and consented to by Contempt Defendants Latrese Hargrave and Kevin Hargrave, Sr. at the Show Cause Hearing. See also Confession of Judgment at 2.

DONE AND ORDERED in Jacksonville, Florida, this 19th day of November, 2012.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:
Counsel of Record