

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

Federal Trade Commission)	Case No: 13-cv-6072
)	
v.)	
)	Judge: John Z. Lee
)	
Caprice Marketing, LLC)	
)	

ORDER

Motion hearing held. Plaintiff Federal Trade Commission's Ex parte motion for a temporary restraining order with asset freeze, other equitable relief, and order to show cause why a preliminary injunction should not issue is granted as set forth in the accompanying order. The temporary restraining order expires on September 12, 2013, at 5:00 p.m. (Central). Plaintiff's ex parte motion to temporarily seal file is granted; the seal will remain in effect until 9/3/13 at 4:00 p.m. (Central). Plaintiff's ex parte motion for leave to file memorandum in excess of 15 pages in support of Plaintiff Federal Trade Commission's ex parte motion for a temporary restraining order is also granted. The clerk is directed to unseal this case on 9/4/13.

Preliminary Injunction hearing is set for 9/12/13 at 11:00 a.m. Defendants' response to Plaintiff's motion for preliminary injunction must be filed with the Court no later than 4:00 p.m. (Central) on Friday, September 6, 2013. Plaintiff may file a reply brief in support of its motion no later than 10:00 a.m. (Central) on September 10, 2013.

Plaintiff should serve Defendants with a copy of this order, the complaint, the temporary restraining order, Plaintiff's motion for preliminary injunction and supporting papers, and all other pleadings and docket filings on or before August 30, 2013.

Date: 8/29/13

/s/John Z. Lee

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CAPRICE MARKETING LLC, a Delaware limited
liability company, *et al.*,

Defendants.

Case No. 13-CIV-6072

Judge John Z. Lee

Magistrate Judge Geraldine Soat Brown

**EX PARTE TEMPORARY RESTRAINING ORDER WITH
ASSET FREEZE AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), having filed its Complaint for Permanent Injunction and Other Equitable Relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and having moved for an *Ex Parte* Temporary Restraining Order with Asset Freeze, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the Court having considered the Complaint, declarations, exhibits, and memorandum of law filed in support of such motion, and now being advised in the premises, finds that:

FINDINGS OF FACT

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

2. Venue in this district is proper.
3. There is good cause to believe that Defendants have engaged in, and are likely to engage in the future in, acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. §45(a), and that the Commission is therefore likely to prevail on the merits of this action.
4. There is good cause to believe that immediate and irreparable harm to the Court's ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, assignment, dissipation, or other disposition or concealment by Defendants of their assets or records, unless Defendants are immediately restrained and enjoined by Order of this Court. As provided for in Federal Rule of Civil Procedure 65(b), the interests of justice require that the FTC's motion be heard *ex parte* without prior notice to Defendants. Therefore, there is good cause for relieving the FTC of the duty to provide Defendants with prior notice of the FTC's motion, and for the entry of the ancillary relief contained in this Order, including freezing Defendants' assets and prohibiting Defendants from destroying records.
5. Good cause exists for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b).
6. Weighing the equities and considering the FTC's likelihood of ultimate success, a Temporary Restraining Order with asset freeze, immediate access to Defendants' business records, expedited discovery as to the existence and location of assets and documents, and other equitable relief is in the public interest.
7. No security is required of any agency of the United States for the issuance of a temporary restraining order. Fed. R. Civ. P. 65(c).

DEFINITIONS

For purposes of this Temporary Restraining Order ("Order"), the following definitions shall apply:

1. **"Asset" or "Assets"** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **"Assisting others"** includes, but is not limited to: (a) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (c) providing names of, or assisting in the generation of, potential customers; (d) verifying, processing, fulfilling, or arranging for the fulfillment of orders; (e) performing or providing marketing, billing, or collection services of any kind, including, but not limited to, creating, hosting, or maintaining websites; or (f) acting as an officer or director of a business entity.

3. **"Corporate Defendants"** means Caprice Marketing LLC ("Caprice"), NuVue Partners LLC ("NuVue"), Capital Advance LLC ("Capital Advance"), Loan Assistance Company LLC ("Loan Assistance"), and ILife Funding, LLC ("ILife"), by whatever other names each may be known, and their successors and assigns, and any subsidiaries, affiliates, and any fictitious business entities or business names created or used by these entities, or any of them.

4. **"Defendants"** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination, and by whatever other names each may be known, including, but not limited to, Vantage Funding, Ideal Advance, Capital Advance Capitol, Palm Loan Advances, Loan Tree Advances, Your Loan Funding, Pacific Advances, and Mulrooney-London, Inc.

5. **"Document" or "documents"** means any materials listed 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, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate Document within the meaning of the term.

6. **"Financial Institution"** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

7. **"Individual Defendants"** means Sean C. Mulrooney, also doing business as Mulrooney-London, Inc., and Odafe Stephen Ogaga, also doing business as Mulrooney-London, Inc., and by whatever other names each may be known.

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

9. **"Plaintiff"** means the Federal Trade Commission ("Commission" or "FTC").

I.

PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale, or sale of any product, service, or program, are hereby temporarily 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 will help consumers obtain a payday loan;
 - 2. That Defendants will use consumers' personal and financial information to help consumers obtain a payday loan; or
 - 3. Defendants' success rate in obtaining or assisting consumers in obtaining payday loans.
- B. Failing to disclose or disclose adequately the material terms and conditions of any offer, including, but not limited to that Defendants will debit consumers' bank accounts; and
- C. Debiting, or causing to be debited, or assisting others in debiting, any consumer's bank account without the consumer's knowledge or authorization.

II.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, 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, shares of stock, lists of consumer names, or other assets, or any interest therein, wherever located, including outside the territorial United States, that are:

1. Owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant;
2. In the actual or constructive possession of any Defendant; or
3. In the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage

company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the territorial United States.

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 or under any Defendant's control, without providing the Commission prior notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Section.

C. Cashing any checks or depositing or processing any payments from consumers, customers, or clients of Defendants.

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

E. Incurring liens or encumbrances on real property, personal property, or other assets in the name, singly or jointly, of any Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant.

Notwithstanding the asset freeze provisions of Section II.A - E above, and subject to prior written agreement with the Commission, Individual Defendants may, upon compliance with Section IV (Financial Statements), *infra*, pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses.

The funds, property, and assets affected by this Section shall include all assets of the Defendants existing at the time this Order is entered, and all assets of the Defendants obtained after entry of this Order.

III.

DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Defendant, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, electronically stored information, or other property held by, or under its control:

1. On behalf of, or for the benefit of, any Defendant or any other party subject to Section II;
2. In any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Defendant or other party subject to Section II; and
3. That are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section II.

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either:

1. Titled in the name, individually or jointly, of any Defendant, or other party subject to Section II; or
2. Subject to access by any Defendant or other party subject to Section II.

C. Provide counsel for Plaintiff, within five (5) days of the date of service of this Order, a sworn statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section II, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;

2. The balance of each such account, or a description of the nature and value of such asset;

3. The identification and location 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 or control by any Defendant or other party subject to Section II, whether in whole or in part; and

4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date.

D. Within five (5) days of a request from the FTC, provide to the Commission 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, corporate resolutions, 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.

E. This Section shall apply to existing accounts and assets, assets deposited or accounts opened after the effective date of this Order, and any accounts or assets maintained,

held or controlled three years prior to the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, any further order of the Court, or by written agreement of the parties.

IV.

FINANCIAL STATEMENTS

IT IS FURTHER ORDERED that each Defendant shall serve upon counsel for the Commission, no later than five (5) business days after service of this Order, a completed financial statement accurate as of the date of entry of this Order, on the forms attached to this Order as **Attachments A and B**, signed under penalty of perjury. The financial statements shall include assets held outside the territory of the United States, shall be accurate as of the date of the entry of this Order, and shall be verified under oath. Defendants shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements.

V.

MAINTAIN RECORDS AND REPORT NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service, facsimile, email, or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from:

A. Failing to create and maintain books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipt ledgers, cash disbursement ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately, fairly and completely reflect the incomes, disbursements, transactions, dispositions, and uses of the Defendants' assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents, including electronically-stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing Plaintiff with a written statement disclosing: (1) the name of the business entity; (2) the address, telephone number, email address, and website address 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.

VI.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint.

B. Benefitting from or using the name, address, birth date, telephone number, email address, Social Security number, Social Insurance number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint.

Provided, however, that Defendants may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

VII.

PLAINTIFF'S IMMEDIATE ACCESS TO DEFENDANTS' BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants shall allow the Plaintiff's representatives, agents, and assistants immediate access to all documents relating to Defendants' business practices for the purpose of inspecting and copying such documents. This includes, without limitation, all documents relating to Defendants' business practices located at the following addresses owned, rented, and/or occupied by Defendants:

1. 2637 Atlantic Boulevard, #20114, Pompano Beach, Florida 33062;
2. [REDACTED] New Castle, Delaware 19720;
3. [REDACTED] Clearwater, Florida 33764;
4. [REDACTED] Clearwater Beach, Florida 33767;
5. [REDACTED], Florida 33761; and
6. [REDACTED], Wilmington, Delaware 19801.

Accordingly, Defendants shall, immediately upon service of this Order:

A. Produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, all documents referring or related, directly or indirectly, to Defendants' business practices, and/or any materials, information, products, or data related thereto.

B. Produce to Plaintiff for inspection, inventory, and/or copying, at a location designated by Plaintiff, all computers and data in whatever form, used by the Defendants, in whole or in part, referring or relating to Defendants' business practices.

The Commission shall return materials produced by the Defendants pursuant to this Paragraph within five (5) business days of the production of such materials.

VIII.

**REPATRIATION OF ASSETS AND DOCUMENTS
LOCATED IN FOREIGN COUNTRIES**

IT IS FURTHER ORDERED that Defendants shall:

A. Within three (3) business days following service of this Order, take such steps as are necessary to repatriate to the territory of the United States of America all documents and assets that are located outside such territory and are held by or for Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually.

B. Within three (3) business days following service of this Order, provide Plaintiff with a full accounting of all documents and assets that are located outside of the territory of the United States of America or that have been transferred to the territory of the United States of America pursuant to Subsection A above and are held by or for any Defendant or are under any Defendant's direct or indirect control, jointly, severally, or individually, including the addresses and names of any foreign or domestic financial institution or other entity holding the documents and assets, along with the account numbers and balances.

C. Hold and retain all such documents and assets and prevent any transfer, disposition, or dissipation whatsoever of any such documents or assets.

D. Within three (3) business days following service of this Order, provide Plaintiff access to Defendants' records and documents held by financial institutions or other entities outside the territorial United States, by signing and delivering to Plaintiff's counsel the Consent to Release of Financial Records attached to this Order as **Attachment C**.

IX.

INTERFERENCE WITH REPATRIATION

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

A. Sending any statement, letter, facsimile, email or wire transmission, or 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 assets have been fully repatriated pursuant to the preceding Section 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 as assets have been fully repatriated pursuant to the preceding Section of this Order.

X.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that pursuant to Federal Rules of Civil Procedure 30(a), 31(a), 34, and 45, and notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f), 30(a)(2)(A), and 31(a)(2)(A), the parties are granted leave, at any time after entry of this Order to:

A. Take the deposition of any person, whether or not a party, for the purpose of

discovering the nature, location, status, and extent of the assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; the Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action; and

B. Demand the production of Documents from any person, whether or not a party, relating to the nature, status, and extent of the assets of Defendants, and Defendants' affiliates and subsidiaries; the nature and location of documents reflecting the business transactions of Defendants, and Defendants' affiliates and subsidiaries; the location of any premises where Defendants, directly or through any third party, conduct business operations; Defendants' whereabouts; and/or the applicability of any evidentiary privileges to this action.

Three (3) days notice shall be deemed sufficient for any such deposition, five (5) days notice shall be deemed sufficient for the production of any such documents, and twenty-four (24) hours notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data. The provisions of this Section shall apply both to parties to this case and to non-parties. The limitations and conditions set forth in Federal Rules of Civil Procedure 30(a)(2)(A)(ii) and 31(a)(2)(A)(ii) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward any limit on the number of depositions under the Federal Rules of Civil Procedure or the Local Rules of Civil Procedure for the United States District Court for the Northern District of Illinois, including those set forth in Federal Rules of Civil Procedure 30(a)(2)(A) and 31(a)(2)(A). Service of discovery upon a party, taken

pursuant to this Section, shall be sufficient if made through the means described in Section XVI of this Order.

XI.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, divisions, directors, officers, agents, partners, successors, assigns, employees, attorneys, agents, representatives, sales entities, sales persons, independent contractors, and any other persons in active concert or participation with them. Within ten (10) calendar days from the date of entry of this Order, each Defendant shall serve on the Commission an affidavit identifying the name, title, address, telephone number, date of service, and manner of service of each person or entity Defendants served with a copy of this Order in compliance with this provision.

XII.

SERVICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail, personal or overnight delivery, or by U.S. Mail, by agents and employees of the Commission, by any law enforcement agency, or by private process server, upon any person that may have possession or control of any document of Defendants, or that may 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 or entity.

XIII.

CONSUMER REPORTING AGENCIES

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

XIV.

DURATION OF THE TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on **September 12, 2013, at 4:00 p.m. (Central Time)**, unless, within such time, for good cause shown, the Order is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time. **This Order must be served upon Defendants on or before August 30, 2013.**

XV.

HEARING ON MOTION FOR PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that Defendants shall appear before this Court, (on the 12th floor of the Dirksen Federal Courthouse, 219 S. Dearborn Street, Chicago, Illinois,) on the **12th day of September, 2013, at 11 o'clock a.m.**, for a hearing on Plaintiff's Motion for Preliminary Injunction.

XVI.

SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE

IT IS FURTHER ORDERED that Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports or declarations,

and/or legal memoranda no later than **4:00 p.m. (Central time) on September 6, 2013.**

Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than **10:00 a.m. (Central time) on September 10, 2013**, provided that service shall be performed by personal or overnight delivery, by electronic filing, by electronic mail, or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates listed in this Section.

XVII.

MOTION FOR LIVE TESTIMONY; WITNESS IDENTIFICATION

IT IS FURTHER ORDERED that the question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties. Live testimony shall be heard only on further order of this Court or on motion filed with the Court and served on counsel for the other parties at least four (4) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties at least two (2) business days prior to the preliminary injunction hearing in this matter, provided that service shall be performed by

personal or overnight delivery, by electronic filing, by electronic mail, or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates provided in this Section. Provided further, however, that an evidentiary hearing on Plaintiff's request for a preliminary injunction is not necessary unless Defendants demonstrate that they have, and intend to introduce, evidence that raises a genuine and material factual issue.

XVIII.

CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF

IT IS FURTHER ORDERED that, for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

James Davis
Elizabeth Scott
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5634 [Telephone]
(312) 960-5600 [Facsimile]

XIX.

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 August 2013, at 4:00 p.m.



Judge John Z. Lee
United States District Judge