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Federal Trade Commission Act (“FTCA”), 15 U.S.C. § 53(b), an

Prevention Act (“Telemarketing Act”), 15 U.S.C. §§

to obtain temporary, preliminary, and permanent

formation of contracts, restitution, the refund of monies

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(Docs. 25-30, 32, and 37.) On October 18, 2016, the Court issued an Order setting the preliminary injunction hearing for October 25, 2016. (Doc. 53.)

Having considered the parties' pleadings, papers, and argument, the Court hereby **GRANTS** the FTC's application for a preliminary injunction against Non-Stipulating Defendants (Doc. 53) as follows.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court, having considered the FTC's Complaint, *ex parte* motion for TRO and

1 the Individual Defendants' spouses, and shall include both existing Assets and Assets
2 acquired after the date this Order is signed, or any interest therein.

3 2. "Asset Freeze Accounts" includes accounts that are held by or for the
4 benefit of, or controlled by, directly or indirectly, any Corporate Defendant, Individual
5 Defendant, and/or Receiver Entity. Asset Freeze Accounts also includes the following
6 accounts, identified by the account holder, the Financial Institution, and last four digits of
7 the account number:

- 8 a. Blue Saguaro Marketing, LLC, Bank of America, 2068;
- 9 b. Max Results Marketing LLC, JP Morgan Chase, 6791;
- 10 b. c. Blue Sa

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- v. Carol Burnett, Chase Bank, unknown; and
- w. Unknown, BBVA Compass, 1086.

3. "Assisting others" includes but is not limited to: (1) performing customer service functions, including but not limited to receiving or responding to consumer complaints; (2) formulating or providing, arranging for the formulation or provision of, any advertising or marketing material, including but not limited to any telephone sales script, direct mail solicitation, or the design, text, or use of images of any Internet website, email, or other electronic communications; (3) formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including but not limited to, web or Internet Protocol addresses or domain name registration for any Internet websites, affiliate marketing services, or media placement services; (4) providing names of, or assisting in the generation of, potential customers; (5) performing or providing marketing, billing, or payment services of any kind; (6) acting or serving as an owner, officer, director, manager, or principal of any entity; (7) providing telemarketing services; or (8) consulting with regard to any of the above.

4. "Corporate Defendants" means Blue Saguaro Marketing, LLC, Marketing Ways.com, LLC, Max Results Marketing, LLC, Oro Canyon Marketing II, LLC, Paramount Business Services, LLC, and their successors, agents, affiliates, or subsidiaries, and each of them by whatever names each might be known, individually, collectively, and in any combination.

5. "Defendants" means all Individual Defendants, Corporate Defendants, and their successors, agents, affiliates, subsidiaries, or assigns, individually, collectively, or in any combination, and each of them by whatever names each might be known.

6. "Document" is synonymous in meaning and equal in scope to the terms "Document" and "electronically stored information," as described and used in the Federal Rules of Civil Procedure. This includes, but is not limited to, electronic mail, instant

1 video and sound recordings, whether stored on: cards; magnetic electronic tapes; disks
2 computer hard drives, network shares or servers, or other drives; cloud-based platforms;
3 cell phones, PDAs, computer tablets, or other mobile devices; or other storage media.

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

8 8. "Financial Institution" means any bank, savings and loan institution,
9 credit union, payment processor, trust, or any

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1 II. PRESERVATION OF RECORDS AND TANGIBLE THINGS

2 IT IS FURTHER ORDERED that Non-Stipulating Defendants, their officers,
3 agents, servants, employees, attorneys, and all other persons in active concert or
4 participation with any of them, who receive actual notice of this Order, whether acting
5 directly or indirectly, in connection with the advertising, marketing, promotion, offering
6 for sale, sale, or provision of any products or service, are hereby temporarily restrained
7 and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or
8 otherwise disposing of, in any manner, directly or indirectly, any Documents or records
9 that relate to the business practices, or business and personal finances, of Non-Stipulating
10 Defendants, or an entity directly or indirectly under the control of Non-Stipulating
11 Defendants.

12 III. DISABLEMENT OF WEBSITES AND PRESERVATION OF
13 ELECTRONICALLY STORED INFORMATION

14 IT IS FURTHER ORDERED that, immediately upon service of this Order upon
15 them (1) any Electronic Data Host and (2) Non-Stipulating Defendants, their officers,
16 agents, servants, employees, attorneys, and all other persons in active concert or
17 participation with any of them, who receive actual notice of this Order, whether acting
18 directly or indirectly, shall:

19 A. Immediately take all necessary steps to ensure that any Internet website
20 used by Non-Stipulating Defendants for the advertising, marketing, promotion, offering
21 for sale, sale, or provision of services or products prohibited by Section I of this Order
22 cannot be accessed by the public; and

23 B. Prevent the alteration, destruction or erasure of any (1) Internet website
24 used by Non-Stipulating Defendants for the advertising, marketing, promotion, offering
25 for sale, sale, or provision of services or products prohibited by Section I of this Order by
26 preserving such websites in the format in which they are maintained currently and (2) any
27 electronically stored information stored on behalf of Non-Stipulating Defendants.

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1 directly or indirectly under the control of any of them, and all other persons or entities in
2 active concert or participation with any of them who receive actual notice of this Order
3 are hereby temporarily restrained and enjoined from directly or indirectly:

4 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
5 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a
6 lien or security interest or other interest, or otherwise disposing of any Assets, or any
7 interest therein, wherever located, including outside the United States, that are:

- 8 1. Asset Freeze Accounts;
- 9 2. owned or controlled, directly or indirectly, by any Defendant, in
10 whole or in part, or held, in whole or in part, for the benefit of any
11 Defendant;
- 12 3. in the actual or constructive possession of any Defendant; or
- 13 4. owned, controlled by, or in the actual or constructive possession of
14 any corporation, partnership, or other entity directly or indirectly owned,
15 managed, or controlled by, or under common control with any Defendant,
16 including any entity acting under a fictitious name owned by or controlled
17 by any Defendant, and any Assets held for, or under the name of any
18 Defendant at any bank or savings and loan institution, or with any broker-
19 dealer, escrow agent, title company, commodity trading company, payment
20 processing company, precious metal dealer or other Financial Institution or
21 depository of any kind;

22 B. Opening or causing to be opened safe deposit boxes titled in the name
23 of any Defendant, or subject to access by any Defendant;

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

26 D. Obtaining a personal or secured loan;

27 E. Incurring liens or encumbrances on real property, personal property or other
28 Assets in the name, singly or jointly, of any Defendant; and

1 F. Cashing any checks or depositing money orders or cash received from
2 consumers, clients, or customers of any Defendant.

3 IT IS FURTHER ORDERED that the Assets affected by this Section shall
4 include: (1) all Assets of Defendants as of the time the TRO was entered; and (2) for
5 Assets obtained after the time the TRO was entered, only those Assets of Defendants that
6 are derived, directly or indirectly, from the Defendants' activities as described in the
7 Commission's Complaint, including the activities of any Receivership Entity. This
8 Section does not prohibit transfers to the Receiver, as specifically required in the Section
9 titled "Transfer of Funds to the Receiver by Financial Institutions and Other Third
10 Parties," nor does it prohibit the repatriation of foreign Assets, as specifically required in
11 the Section titled "Repatriation of Foreign Assets" of this Order.

12 VII. VII.

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C. Deny access to any safe deposit boxes that are either titled in the name of, individually or jointly, or subject to access by the Non-Stipulating Defendants or other party subject to the Asset Freeze above;

D. Provide to counsel for the FTC, within one (1) business day, a sworn statement setting forth:

1. the identification of each account

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- 2. subject to access by;
- 3.

1 B. Notifying any trustee, protector, or other agent of any foreign trust or other
2 related entities of either the existence of this Order, or of the fact that repatriation is
3 required pursuant to a court order, until such time that all Assets have been fully
4 repatriated pursuant to "Repatriation of Assets" Section of this Order.

5 XII. RECORDKEEPING AND BUSINESS OPERATIONS

6 IT IS FURTHER ORDERED that Non-Stipulating Defendants are hereby
7 temporarily restrained and enjoined from:

8 A. Failing to create and maintain Documents that, in reasonable detail,
9 accurately, fairly, and completely reflect income, disbursements, transactions, and use
10 of money;

11 B. Creating, operating, or exercising any control over any business entity,
12 including any partnership, limited partnership, joint venture, sole proprietorship, limited
13 liability company or corporation, without first providing the Commission with a written
14 statement disclosing: (1) the name of the business entity; (2) the address and telephone
15 number of the business entity; (3) the names of the business entity's officers, directors,
16 principals, managers, and employees; and (4) a detailed description of the business
17 entity's intended activities; and

18 C. Affiliating with, becoming employed by, or performing any work for any
19 business that is not a named Defendant in this action without first providing the
20 Commission with a written statement disclosing (1) the name of the business; (2) the e
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1 Receiver under this Order. The Receiver shall be accountable directly to this Court. The
2 Receiver shall comply with all local rules and laws governing federal equity receivers.

3 XIV. COOPERATION WITH THE RECEIVER
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1 Receiver's duly authorized agents in the exercise of their duties or authority under any
2 Order of this Court.

3 XV. DUTIES AND AUTHORITY OF RECEIVER

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

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

10 B. Take exclusive custody, control and possession of all Assets and
11 Documents of, or in the possession, custody, or under the control of, any Receivership
12 Entity and other persons or entities whose interests are now held by or under the
13 direction, possession, custody, control of any Receivership

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1 a written inventory of Receivership Assets; (3) obtaining pertinent information from all
2 employees and other agents of the Receiver Entities, including, but not limited to, the
3 name, home address, Social Security number, job description, method of compensation,
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H. Continue and conduct the businesses of Non-Stipulating Defendants in such manner, to such extent and for such duration as the Receiver may in good faith deem to be necessary or appropriate to oper

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XVIII. RECEIVER'S BOND

IT IS FURTHER ORDERED that, pursuant to 28 U.S. § 754, the Court will exercise its discretion and waive the receiver's bond.

XIX. COMPENSATION OF THE RECEIVER

IT IS FURTHER ORDERED that the Receiver, and all persons or entities retained or hired by the Receiver as authorized under this Order, shall be entitled to reasonable compensation for the performance of duties undertaken pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them from the Assets now held by or in the possession or control of, or which may be received by, the Receivership Entities. The Receiver shall file with the Cour

1 XXI. PARTIES' ACCESS TO BUSINESS PREMISES AND RECORDS

2 IT IS FURTHER ORDERED that the Receiver shall allow the FTC, the Non-
3 Stipulating Defendants, and their representatives reasonable access to the premises of the
4 Receivership Entities. The purpose of this access shall be to inspect, inventory, and copy
5 any Documents and other property owned by, or in the possession of, the Receivership
6 Entities, provided that those Documents and property are not removed from the premises
7 without the permission of the Receiver. The Receiver shall have the discretion to
8 determine the time, manner, and reasonable conditions of such access. The Receiver will
9 segregate all materials subject to an attorney-client privilege held by a Receivership
10 Entity's clients and shall not make these materials available to either the FTC or Non-
11 Stipulating Defendants without the clients' consent. The FTC's access to any Documents
12 pursuant to this provision shall not provide grounds for the Non-Stipulating Defendants
13 to object to any subsequent requests Documents served by the FTC.

14 XXII. LIMITED EXPEDITED DISCOVERY

15 IT IS FURTHER ORDERED that, in addition to any other discovery allowed 19(a)

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1 pursuant to this Section that has not been reviewed and signed by the deponent may be
2 used by any party for purposes of any preliminary injunction hearing;

3 B. Serve upon parties interrogatories requests for production of Documents
4 or inspection that require a response, production or inspection within four (4) days of
5 service, and may serve subpoenas upon non-stipulating parties that direct production or inspection
6 within seven (7) days of service, for the purpose of discovery: (1) the nature, location,
7 status, and extent of Assets of Non-Stipulating Defendants; (2) the nature and location of
8 Documents and business records of Non-Stipulating Defendants; and (3) compliance with
9 this Order; provided, however, that forty-eight (48) hours' notice shall be deemed
10 sufficient for the production of any such Documents that are maintained or stored as
11 electronic data. Any such interrogatories requests for production or inspection shall not
12 count toward any limit on discovery set forth in the Federal Rules of Civil Procedure or
13 this Court's Local Rules;

14 C. For purposes of this Section, serve deposition notices and other discovery
15 requests upon the parties to this action personally or by facsimile, email, certified or
16 registered mail, or private courier (including a process server) with a receipt from the
17 courier showing delivery; and

18 D. Pursuant to Fed. R. Civ. P. 45(b), subpoena Documents immediately from any
19 Financial Institution, business entity, Electronic Data Host, or person served with a copy
20 of this Order that holds, controls, or maintains custody of any account, Document, or
21 Asset of, on behalf of, in the name of, for the benefit of, subject to withdrawal by, subject
22 to access or use by, or use of Non-Stipulating
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1 XXIII. BANKRUPTCY PETITIONS

2 IT IS FURTHER ORDERED that, in light of the appointment of the Receiver,
3 the Receivership Entities are hereby prohibited from filing petitions for relief under the
4 United States Bankruptcy Code, 11 U.S.C. § 101 et seq. without prior permission from
5 this Court.

6 XXIV. STAY OF ACTIONS

7 IT IS FURTHER ORDERED that:

8 A. Except by leave of this Court, during the pendency of the Receivership
9 ordered herein, the Receivership Entities and all customers, principals, investors,
10 creditors, stockholders, lessors, and others are prohibited from seeking to establish or enforce any
11 claim, right, or interest against or on behalf of the Receivership Entity, and all others
12 acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs,
13 constables, marshals, and other officers and their deputies, and their respective attorneys,
14 servants, agents, and employees and are hereby stayed from:

- 15 1. Commencing, prosecuting, continuing, entering, or enforcing any
16 suit or proceeding, except that such actions may be filed to toll any
17 applicable statute of limitations;
- 18 2. Accelerating the due date of any obligation or claimed obligation.

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1 Elsie B. Kappler
2 Hong Park
3 Federal Trade Commission
4 600 Pennsylvania Ave., NW, Mail Drop CC-9528
5 Washington, DC 20580
6 Telephone: (202) 326-2466 (Kappler), -2158 (Park)
7 ekappler@ftc.gov, hpark@ftc.gov

8 XXVII. SERVICE OF THIS ORDER

9 IT IS FURTHER ORDERED that copies of this Order may be served by
10 facsimile, email, hand-delivery, personal or overnight delivery, or U.S. Mail, by agents
11 and employees of the FTC and any state or federal law enforcement agency or by private
12 process server, upon any Financial Institution or other entity or person that may have
13 possession, custody, or control of any Documents or Assets of the Non-Stipulating
14 Defendants, or that may otherwise be subject to any provision of this Order. Service upon
15 any branch or office of any Financial Inst