

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FEDERAL TRADE COMMISSION, and

STATE OF MINNESOTA, by its Attorney
General, Lori Swanson,

Plaintiffs,

v.

SELLERS PLAYBOOK, INC., a
corporation,

EXPOSURE MARKETING COMPANY,
a corporation, also d/b/a Sellers Online and
Sellers Systems,

JESSIE CONNERS TIEVA, individually
and as an officer of SELLERS
PLAYBOOK, INC. and EXPOSURE
MARKETING COMPANY, and

MATTHEW R. TIEVA, individually and
as an officer of SELLERS PLAYBOOK,
INC. and EXPOSURE MARKETING
COMPANY,

Defendants.

Civil No. 18-2207 (DWF/TNL)

**AMENDED
STIPULATED ORDER FOR
PERMANENT INJUNCTION
AND MONETARY
JUDGMENT**

Plaintiffs, the Federal Trade Commission (“FTC”), and the State of
Minnesota, by its Attorney General Lori Swanson (“State of Minnesota”), filed
their Complaint for Permanent Injunction and Other Equitable Relief
 (“Complaint”), in this matter, pursuant to Sections 13(b) and 19 of the Federal

Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Business

H. **“Earnings Claim**

1. prohibits or restricts the ability of a person who is a party to the contract to engage in a covered communication;
2. imposes a penalty or fee against a person who is a party to the contract for engaging in a covered communication; or
3. transfers, or requires a person who is a party to the contract to transfer, to any other person any intellectual property rights in a covered communication, with the exception of a non-exclusive license to lawfully use a covered communication about a Defendant's goods, services, or conduct.

M. **“Providing locations, outlets, accounts, or customers”** means furnishing the prospective Purchaser with existing or potential locations, outlets, accounts, or customers; requiring, recommending, or suggesting one or more locators or lead generating companies; providing a list of locator or lead generating companies; collecting a fee on behalf of one or more locators or lead generating companies; offering to furnish a list of locations; or otherwise assisting the prospective Purchaser in obtaining his or her own locations, outlets, accounts, or customers.

N. **“Purchaser”** means a Person who buys a Business Opportunity or Business Coaching Program.

O. **“Receiver”** means Robb Evans & Associates LLC, the receiver appointed in Section XII of the Temporary Restraining Order issued on Monday July 30, 2018 [ECF No. 29] and whose appointment was extended in the Order Extending the Duration of the Temporary Restraining Order and Postponing Preliminary Injunction Hearing issued on August 7, 2018 [ECF No. 39], and whose appointment is continued in Section VII of this Order, and any deputy receivers that shall be named by Robb Evans & Associates LLC.

P. **“Receivership Estate”** means the assets identified in Section IV.B of this Order and all assets of the Corporate Defendants, including: (a) any assets of the Corporate Defendants currently in the possession of the Receiver; (b) all the funds, property, premises, accounts, documents, mail, and all other assets of, or in the possession or under the control of the Corporate Defendants, wherever situated, the income and profits therefrom, all sums of money now or hereafter due or owing to the Corporate Defendants, and any other assets or property belonging or owed to the Corporate Defendants; (c) any assets of the Corporate Defendants held in asset protection trusts; (d) any reserve funds or other accounts associated with any payments processed on behalf of any Corporate Defendant, including such reserve funds held by a payment processor, credit card processor, or bank; and (e) all proceeds from the sale of such assets, except those assets the sale of which the Receiver determines will not add appreciably to the value of the estate.

B. misrepresenting or assisting others in misrepresenting, expressly or by implication any other fact material to consumers concerning any product or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III. INJUNCTION AGAINST SUPPRESSING COVERED COMMUNICATIONS THROUGH PROHIBITED CONTRACT PROVISIONS

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 permanently restrained and enjoined from offering, attempting to enforce, or asserting the validity of, any prohibited contract provision. Nothing in this Section shall: require a Defendant to publish or host the content of any person; affect any other legal duty of a party to a contract; or affect any cause of action arising from the breach of such duty.

IV. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

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favor of Plaintiffs against Defendants, jointly and severally, as equitable monetary relief.

B. Immediately upon entry of this Order, Defendants are ordered to surrender to Plaintiffs all control, title, dominion, and interest each has to the following assets:

1. All interest the Defendants have in funds in any accounts in the

5. All funds held by Fidelity Bank in the name of Sellers Playbook, Inc., including the accounts ending in 5846, 2858, and 2946;
6. All funds held by Charles Schwab & Co. Inc. in the name of Exposure Marketing Company, including the account ending in 8057;
7. All funds held by Hiway Federal Credit Union in the name of Exposure Marketing Company, including the accounts ending in 201-1 and 201-2;
8. All funds held by Horizon Trust in the name of Sellers Playbook, Inc.;
9. All reserve funds or any other accounts held, controlled, or serviced by Electronic Merchant Systems and associated with any payments processed by, or on behalf of Sellers Playbook, Inc., including the merchant account with the MID ending in 0871;
10. All reserve funds or any other accounts held, controlled, or serviced by PayPal, Inc. and associated with any payments processed by, or on behalf of Sellers Playbook, Inc., including the merchant accounts ending in 0161, 3420, and 4287;

17. Matthew Tieva's shares or ownership interest in, or right to any distribution as a beneficiary of the Tieva Northland Mechanical Contractors 2007 Irrevocable Trust and/or the Matthew Tieva Northland Mechanical Contractors 2007 Irrevocable Trust;
18. The real property, including the land, buildings and fixtures, located at 135 Century Ave., St. Paul, Minnesota, 55419;
19. The real property, including the land, buildings and fixtures, located at 12130 29th Ave. N, Plymouth, Minnesota, 55441;
20. The funds held by Charles Schwab & Co. Inc. in the name of Matthew Tieva, in the accounts ending in 2782 and 8057;
21. The funds held by Charles Schwab & Co. Inc. in the name of

G. The suspension of the judgment will be lifted as to any Defendant if, upon motion by Plaintiffs, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

H. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury and unjust enrichment alleged in the Complaint), less any payments previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

I. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

J. The State of Minnesota through this Order does not settle, release, or resolve any claim against Defendants or any other person or entity involving any private causes of action, claims, and remedies including, but not limited to, private causes of action, claims, or remedies provided for under Minn. Stat. §

payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

L. The facts alleged in the Complaint establish all elements necessary to sustain an action by the FTC or the State of Minnesota pursuant to Section

H. Institute actions or proceedings in state, federal, or foreign courts as the Receiver deems necessary and advisable to preserve or recover the assets of the Corporate Defendants, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including actions challenging fraudulent or voidable transfers.

I. Defend any or all actions or proceedings instituted against the Corporate Defendants, as the Receiver deems necessary and advisable to preserve the assets of the Corporate Defendants.

J.

VIII. RECEIVER'S FINAL REPORT AND DISBURSEMENTS

IT IS FURTHER ORDERED that:

A. No later than 180 days from the date of the entry of this Order, the Receiver shall file and serve on the parties a report (the "Final Report") to the Court that details the steps taken to dissolve the Receivership Estate. The Final Report must include an accounting of the Receivership Estate's finances and total assets and a description of what other actions, if any, must be taken to wind down the Receivership.

B. The Receiver shall mail copies of the Final Report to all known creditors of the Corporate Defendants with a notice stating that any objections to paying any assets of the Corporate Defendants to satisfy t6 (n)]TJ ET 1 sc4PnM5 (n)8..6 t I

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A. Each Defendant, within 7 days of entry of this Order, must submit to Plaintiffs an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 10 years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, partners, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to Plaintiffs:

A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and e-mail address and telephone number, as designated points of contact, which representatives of the FTC or the State of Minnesota may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, e-mail, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendants must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC and the State of Minnesota.
2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, e-mail and Internet

addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any

residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to Plaintiffs required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by an FTC representative in writing, all submissions to the FTC pursuant to this Order must be e-mailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The

subject line must begin: FTC v. Sellers Playbook, et al., X180026. Unless otherwise directed by a State of Minnesota representative in writing, all submissions to the State of Minnesota pursuant to this Order must be mailed to: Frances L. Kern, Assistant Attorney General, Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota, 55101.

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendants and each Individual Defendant for any business that such Defendant, individually or c

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the FTC or State of Minnesota; and

E. A copy of each unique advertisement or other marketing material.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the FTC or the State of Minnesota, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce Documents for inspection and copying. The FTC and the State of Minnesota are are

interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The

STIPULATED AND AGREED TO BY:

FOR

FOR FEDERAL TRADE COMMISSION:

s/Roberto Anguizola
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Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

FOR STATE OF MINNESOTA:

s/Frances L. Kern

Date: 11.19.18

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