

**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,

Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Business Opportunity Rule, 16 C.F.R. Part 437, the Consumer Review Fairness Act of 2016 (“CRFA”), 15 U.S.C. § 45b, Minnesota Statutes chapter 8, the Minnesota Attorney General’s common law authority, including *parens patriae* authority, the Minnesota Uniform Deceptive Trade Practices Act (“DTPA”), Minn. Stat. §§ 325D.43-.48, and the Minnesota Prevention of Consumer Fraud Act (“CFA”), Minn. Stat. §§ 325F.68-.694. Plaintiffs and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the Business Opportunity Rule, 16 C.F.R. Part 437, the Consumer Review Fairness Act of 2016, 15 U.S.C. § 45b, the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43-.48, and the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68-.694, in connection with the advertising, marketing, distribution, promotion and sale of goods and services, including business opportunities, to consumers throughout the United States.

- (i) Provide locations for the use or operation of equipment, displays, vending machines, or similar devices, owned, leased, controlled, or paid for by the Purchaser; or
- (ii) Provide outlets, accounts, or customers, including Internet outlets, accounts, or customers, for the Purchaser's goods or services; or
- (iii) Buy back any or all of the goods or services that the Purchaser makes, produces, fabricates, grows, breeds, modifies, or provides, including providing payment for such services as, for example, stuffing envelopes from the Purchaser's home.

C. **“Corporate Defendants”** means Sellers Playbook, Inc., Exposure Marketing Company, also doing business as Sellers Online and Sellers Systems, and their successors and assigns.

D. **“Covered communication”** means a written, oral, or pictorial review, performance assessment, or other similar analysis, including by electronic means, of goods, services, or conduct.

E. **“Defendants”**

F. **“Designated Person”** means any Person, other than the Seller, whose goods or services the Seller suggests, recommends, or requires that the Purchaser use in establishing or operating a new business.

G. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of

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H. **“Earnings Claim”** means any oral, written, or visual representation to a consumer, prospective purchaser or investor that conveys, expressly or by implication, a specific level or range of actual or potential sales, or gross or net income or profits. Earnings claims include, but are not limited to, any: (1) chart, table, or mathematical calculation that demonstrates possible results based upon a combination of variables; and (2) statements from which a consumer, prospective purchaser or investor can reasonably infer that he or she will earn a minimum level of income (e.g., “earn enough to buy a Porsche,” “earn a six-figure income,” or “earn your investment back within one year”).

I. I.

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 w [(a)7und16.lbt 7,on ofe

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

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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 name of the Corporate Defendants;
2. All cash held by the Receiver;
3. All assets owned by the Corporate Defendants, including any real, personal, or intellectual property, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail, or other deliveries, shares or stock, securities, inventory, checks, notes, accounts, credits, receivables, insurance policies, lines of credit, cash, trusts (including asset protection trusts), lists of consumer names and reserve funds or any other accounts associated with any payments processed by, or on behalf of, any Corporate Defendants;
4. All funds held by Fidelity Bank in the name of Exposure Marketing Company, including the account ending in 6438;

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 Matthew Tieva and Jessie Connors Tieva, in the account ending in 8494;
22. The funds held by Hiway Federal Credit Union in the name of Jessie Connors Tieva, in the account ending in 149-1;
23. The funds held by US Bank in the name of Matthew Tieva and Jessie Connors Tieva, in the account ending 7326;
24. All funds held by PayPal in the name of Matthew Teiva, including the account ending 8784; and

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

deposited to the State of Minnesota's General Fund, as disgorgement. Defendants have no right to challenge any actions Plaintiffs or their representatives may take pursuant to this Subsection.

O. The asset freeze imposed by the July 30, 2018 Temporary Restraining Order [ECF No. 29], is modified to permit the payment and transfers identified in Subsections IV.B above. Upon completion of those payment and transfers, the asset freeze as to Defendants is dissolved.

V. CUSTOMER INFORMATION

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

A. Failing to provide sufficient customer information to enable the FTC to efficiently administer consumer redress. Defendants represent that they have provided this redress information to the FTC. If a representative of the FTC requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the FTC, within 14 days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, e-mail address, social security number, other identifying information, or any data that enables access to a customer's account

places and times as an FTC or State of Minnesota representative may designate, without the service of a subpoena.

VII.

D. Take all steps necessary or advisable, including issuing subpoenas, to locate and liquidate all other assets of the Corporate Defendants, cancel the Corporate Defendants' contracts, collect on amounts owed to the Corporate Defendants, and take such other steps as may be necessary to wind-down the Corporate Defendants efficiently.

E. To the extent not already completed, the Receiver shall as soon as practicable after the entry of this Order, take exclusive custody, control, and possession of all assets identified in Section IV.B of this Order.

F. The Receiver shall give reasonable notice to Plaintiffs of any settlements or compromises by the Receiver concerning the Receivership Estate, before the settlement or compromise is consummated. Within 20 days of this notice, the FTC and the State of Minnesota shall have the opportunity to object to any such settlement, by filing a motion with the Court.

G. Make payments and disbursements from the Receivership Estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Corporate Defendants prior to the date of entry of the temporary restraining order in this action, except payments that the Receiver deems necessary or advisable to ensure assets of the Corporate Defendants are not lost, stolen, or dissipated.

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.

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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 entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or

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

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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 FTC and the State of Minnesota may use all other lawful means, including posing, through their representatives, as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the FTC's or the State of Minnesota's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, and Minnesota Statutes section 8.31 *et seq.* respectively.

D. Upon written request from a representative of the FTC or the State of Minnesota, any consumer reporting agency must furnish consumer reports concerning Individual Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED:

s/Donovan W. Frank

DONOVAN W. FRANK
United States District Judge

Dated:

FOR FEDERAL TRADE COMMISSION:

s/Roberto Anguizola
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Date: 11.19.18

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