













1 At best, the FTC surmises that because the individual Defendants are  
2 accused of violations that could subject them to substantial liability, they  
3 will dissipate assets. If this were sufficient to establish a “possibility” of  
4 dissipation, then every defendant subject to an injunction under the  
FTCA would automatically be subject to an asset freeze.

5 *Id.* A fair reading of the FTC Application and papers reveals that the FTC had and has  
6 no basis to support an asset freeze against Mr. Boreyko (or Vemma, for that matter).

7 **B. The FTC Application and related submissions do not allege any basis**  
8 **for the drastic relief sought.**

9 What makes the FTC’s conduct in this Case even more egregious is the fact that  
10 the FTC previously investigated Mr. Boreyko in connection with New Vision, and there  
11 was absolutely no evidence or indication that Mr. Boreyko or New Vision attempted to  
12 dissipate assets, conceal funds, or made any other attempt to be anything other than up  
13 front and transparent. Likewise, a Vemma affiliate in Italy was subjected to a similar  
14 process by the Italian authorities (but there, the Italian authorities did not unilaterally  
15 crater the business, did not take drastic and unwarranted measures, and instead engaged  
16 in a process that resulted in continued operation and success for the company and its  
17 members and employees). The Italian authorities similarly did not find any evidence  
18 that anyone associated with Vemma (Mr. Boreyko or otherwise) did anything other than  
19 cooperate fully with the investigation process.

20 Based on the applicable authorities, and the utter dearth of any evidence or even  
21 any allegation (other than pure conjecture and irrelevant speculation) to support the  
22 relief sought by the FTC, this particular asset freeze obtained by the FTC may be the  
23 most reckless asset freeze possible when considering the facts and circumstances of this  
24 Case and the applicable law.

25 The FTC’s actions have ruined a company, destroyed reputations (including Mr.  
26 Boreyko’s), and left multitudes of employees jobless – all without any basis or evidence  
27 to support these drastic and unsubstantiated actions, and certainly without meeting the  
28 applicable standards and burden that the FTC must bear.

1 **III. CONCLUSION.**

2 As Mr. Boreyko stated in his own words:

3 After my 21 years of successfully operating as a CEO of two Direct  
4 Selling Association (“DSA”) member network marketing companies,  
5 generating hundreds of local jobs, creating part time incomes for tens of  
6 thousands of families around the world - to not even be warned by the  
7 FTC of potential problems is unthinkable in this country. To shut down  
8 my company worldwide, freeze all my assets and accounts, to label me  
9 a flight risk without any basis whatsoever, to destroy my company, my  
10 brands and my reputation around the world in the media should never be  
11 allowed to happen before a simple phone call. The damage to families,  
12 the damage to my family, and the damage to my reputation cannot be  
13 undone. 21 years of very hard work, massive risk taking, and a  
14 tremendous amount of commitment deserves better. The very nature of  
15 a pyramid scheme is to harm people. Vemma, at its core mission, exists  
16 to help people. I know the difference, and I would never engage in the  
17 latter.

18 *See* Boreyko Declaration at ¶30.

19 The FTC has failed miserably to establish a likelihood of success on its claims  
20 that: (i) Vemma is a pyramid scheme; (ii) Vemma and Mr. Boreyko made misleading  
21 representations concerning income potential for Vemma Affiliates; (iii) Vemma or Mr.  
22 Boreyko would have dissipated assets had they received basic notice of the FTC Action;  
23 and (iv) the FTC has any right to pretrial relief in this case. As a result, Mr. Boreyko  
24 respectfully requests that the Court:

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- A. Dissolve the TRO immediately;
  - B. Deny any further injunctive relief requested by the FTC in this action; and
  - C. Grant Mr. Boreyko such other and further relief as is just and proper under  
the circumstances of this case.



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Respectfully submitted this 10th day of September 2015.

GALLAGHER & KENNEDY, P.A.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of September, 2015, I electronically transmitted a PDF version of this document to the Clerk of the Court, using the CM/ECF System for filing and for transmittal of a Notice of Electronic Filing to all CM/ECF registrants and non-registered parties.

/s/ Gloria Kannberg