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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,
Plaintiff,
v.
James D. Noland, Jr., *et al.*,
Defendants.

No. CV-20-0047-PHX-DWL

**ORDER IMPOSING PRELIMINARY
INJUNCTION AND OTHER RELIEF
AGAINST THE DEFENDANTS**

Plaintiff Federal Trade Commission (the “FTC”) filed its Amended Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) (Doc. 35), and moved, pursuant to Fed. R. Civ. P. 65, for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against individual defendants James D. Noland, Jr. (“Jay Noland”), Lina Noland (“Lina Noland”), Scott A. Harris (“Harris”), and Thomas G. Sacca (“Sacca”) (collectively, the “Individual Defendants”), and Success by Media Holdings Inc. and Success by Media LLC (together, the “Corporate Defendants” or “Success By Media”). (Docs. 7, 8). On January 13, 2020, the Court granted the FTC’s motion and entered its Amended Order (Doc. 21), as later amended (Doc. 38, the “TRO”). Upon consideration of the materials submitted by the parties, the live testimony heard by the Court, and the arguments of counsel, the Court now enters this Preliminary Injunction Order against the Defendants.

The Court, having specifically considered the Amended Complaint, Plaintiff’s *ex parte* Motion for TRO and other equitable relief, Defendants’ Opposition, Plaintiff’s

1 supplemental filing, the evidence submitted by the parties before and during the
2 preliminary injunction hearing, as well as the evidence submitted by Defendants following
3 the hearing, adopts the findings of fact and conclusions of law as stated in the TRO, as
4 amended by and expanded on in the Court’s February 27, 2020 Order (Doc. 106).

5 **DEFINITIONS**

6 For the purpose of this Order, the following definitions shall apply:

7 A. **“Asset”** means any legal or equitable interest in, right to, or claim to, any
8 property, wherever located and by whomever held, whether tangible, intangible, digital, or
9 otherwise, including, but not limited to, digital currencies, virtual currencies, digital tokens,
10 and cryptocurrencies.

11 B. **“Corporate Defendants”** means Success By Media Holdings Inc., Success
12 By Media LLC, and each of their subsidiaries, affiliates, successors, and assigns.

13 C. **“Defendants”** means Corporate Defendants, James D. Noland, Jr., Lina
14 Noland, Scott A. Harris, and Thomas G. Sacca, individually, collectively, or in any
15 combination.

16 D. **“Document”** is synonymous in meaning and equal in scope to the usage of
17 “document” and “electronically stored information” in Federal Rule of Civil Procedure
18 34(a) and includes writings, drawings, graphs, charts, photographs, sound and video
19 recordings, images, Internet sites, web pages, websites, electronic correspondence,
20 including e-mail and instant messages, contracts, accounting data, advertisements, FTP
21 Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone
22 logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and
23 check registers, bank statements, appointment books, computer records, customer or sales
24 databases and any other electronically stored information, including Documents located on
25 remote servers or cloud computing systems, and other data or data compilations from
26 which information can be obtained directly or, if necessary, after translation into a
27 reasonably usable form. A draft or non-identical copy is a separate document within the
28 meaning of the term.

1 E. **“Electronic Data Host”** means any person or entity in the business of
2 storing, hosting, or otherwise maintaining electronically stored information. This includes,
3 but is not limited to, any entity hosting a website or server, and any entity providing “cloud
4 based” electronic storage.

5 F. **“Individual Defendant(s)”** means James D. Noland, Jr., Lina Noland, Scott
6 A. Harris, and Thomas G. Sacca, individually, collectively, or in any combination.

7 G. **“Marketing Program”** includes, but is not limited to, any multilevel,
8 affiliate, or network marketing program, business opportunity, pyramid marketing scheme,
9 Ponzi scheme, or chain marketing scheme.

10 H. **“Receiver”** means the receiver appointed in Section XIII of this Order.

11 I. **“Receivership Entities”** means Corporate Defendants as well as any other
12 entity that has conducted any business related to Defendants’ marketing of programs,
13 opportunities, or services offered by Success By Media, including receipt of Assets derived
14 from any activity that is the subject of the Complaint in this matter, and that the Receiver
15 determines is controlled or owned by any Defendant.

16 ORDER

17 I. PROHIBITED BUSINESS ACTIVITIES

18 **IT IS THEREFORE ORDERED** that Defendants, Defendants’ officers, agents,
19 employees, and attorneys, and all other persons in active concert or participation with them,
20 who receive actual notice of this Order by personal service or otherwise, whether acting
21 directly or indirectly, in connection with the advertising, marketing, promoting, or offering
22 for sale of any Marketing Program, are preliminarily restrained and enjoined from:

23 A. Engaging in, participating in, assisting others, or providing others with the
24 means and instrumentalities to engage or participate in, any Marketing Program that:

- 25 1. Pays compensation for recruiting new members;
- 26 2. Encourages or incentivizes members to purchase goods or services to
27 obtain or maintain eligibility for bonuses, rewards, or commissions
28 rather than for resale or personal use;

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- 3. Induces others to encourage or incentivize members to purchase goods or services to obtain or maintain eligibility for bonuses, rewards, or commissions rather than for resale or personal use;
- 4. Pays any compensation related to the purchase or sale of goods or services unless such compensation is for sales to or purchases by persons who are not members of the Marketing Program and who were not being recruited to become members of the Marketing Program;
- 5. Fails to monitor and take all reasonable steps necessary to ensure that any compensation paid is for sales to or purchases by persons who are not members of the Marketing Program and who were not being recruited to become members of the Marketing Program; or
- 6. Constitutes a pyramid scheme or chain marketing scheme.

B. Misrepresenting, or assisting others in misrepresenting, directly or indirectly, expressly or by implication, any material fact, including, but not limited to, that consumers who participate in a Marketing Program will receive or are likely to receive substantial income, as well as any other fact material to consumers concerning any good 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.

C. For any sale for \$25 or more made at the residence of the buyer, or of \$130 or more for sales made at a location other than Defendants' place of business, failing (1) to inform any consumer, orally and in writing in a bold, size 10-point font, of the consumer's right to cancel the purchase without penalty within 3 business days and obtain a full refund; and (2) failing to provide such refund within 10 business days of request.

D. Failing, with respect to any merchandise sold by Defendants by mail, via the Internet, or by telephone that is not shipped within 30 days or within any other time that is clearly and conspicuously displayed at the time of purchase, to offer the buyer the option to cancel the order and receive a full refund or to consent to a delay; and failing to provide consumers a refund when requested under those conditions.

1 **II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

2 **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers, agents,
3 employees, and attorneys, and all other persons in active concert or participation with any
4 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
5 hereby preliminarily restrained and enjoined from:

6 A. Selling, renting, leasing, transferring, or otherwise disclosing, the name,
7 address, birth date, telephone number, email address, credit card number, bank account
8 number, Social Security number, or other financial or identifying information of any person
9 that any Defendant obtained in connection with any activity that pertains to the subject
10 matter of this Order; and

11 B. Benefitting from or using the name, address, birth date, telephone number,
12 email address, credit card number, bank account number, Social Security number, or other
13 financial or identifying information of any person that any Defendant obtained in
14 connection with any activity that pertains to the subject matter of this Order.

15 Provided, however, that Defendants may disclose such identifying information to a
16 law enforcement agency, to their attorneys as required for their defense, as required by any
17 law, regulation, or court order, or in any filings, pleadings, or discovery in this action in
18 the manner required by the Federal Rules of Civil Procedure and by any protective order
19 in the case.

20 **III. ASSET FREEZE**

21 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
22 employees, and attorneys, and all other persons in active concert or participation with any
23 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
24 hereby preliminarily restrained and enjoined from:

25 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
26 selling, concealing, dissipating, disbursing, assigning, relinquishing, spending,
27 withdrawing, granting a lien or security interest or other interest in, or otherwise disposing
28 of any Assets that are:

1. owned or controlled, directly or indirectly, by any Defendant;

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- 2. held, in part or in whole, for the benefit of any Defendant;
- 3. in the actual or constructive possession of any Defendant; or
- 4. owned or controlled by, in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by any Defendant;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled or leased in the name of any Defendant, or subject to access by any Defendant, except as necessary to comply with written requests from the Receiver acting pursuant to her authority under this Order;

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or of which any Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which any Defendant is, or was on the date of the TRO, an authorized signor; or

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

The Assets affected by this Section shall include: (1) all Assets of Defendants as of entry of the TRO (January 13, 2020); and (2) Assets obtained by Defendants after entry of the TRO if those Assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign Assets specifically required by this Order or expenditures by the Individual Defendants for minor, day-to-day living expenses.

IV. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance

1 company, business entity, or person who receives actual notice of this Order (by service or
2 otherwise) that:

3 (a) has held, controlled, or maintained custody, through an account or otherwise,
4 of any Document on behalf of any Defendant or any Asset that has been owned or
5 controlled, directly or indirectly, by any Defendant; held, in part or in whole, for the benefit
6 of any Defendant; in the actual or constructive possession of any Defendant; or owned or
7 controlled by, in the actual or constructive possession of, or otherwise held for the benefit
8 of, any corporation, partnership, asset protection trust, or other entity that is directly or
9 indirectly owned, managed or controlled by any Defendant;

10 (b) has held, controlled, or maintained custody, through an account or otherwise,
11 of any Document or Asset associated with credits, debits, or charges made on behalf of any
12 Defendant, including reserve funds held by payment processors, credit card processors,
13 merchant banks, acquiring banks, independent sales organizations, third party processors,
14 payment gateways, insurance companies, or other entities; or

15 (c) has extended credit to any Defendant, including through a credit card
16 account, shall:

17 A. Hold, preserve, and retain within its control and prohibit the withdrawal,
18 removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation,
19 relinquishment, conversion, sale, or other disposal of any such Document or Asset, as well
20 as all Documents or other property related to such Assets, except by further order of this
21 Court; provided, however, that this provision does not prohibit an Individual Defendant
22 from incurring charges on a personal credit card established prior to entry of this Order, up
23 to the pre-existing credit limit;

24 B. Deny any person, except the Receiver, access to any safe deposit box,
25 commercial mail box, or storage facility that is titled in the name of any Defendant, either
26 individually or jointly, or otherwise subject to access by any Defendant;

27 C. Provide Plaintiff's counsel and the Receiver, within 3 days of receiving a
28 copy of this Order, a sworn statement setting forth, for each Asset or account covered by
this Section:

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1. The identification number of each such account or Asset;
2. The balance of each such account, or a description of the nature and value of each such Asset as of the close of business on the day on which this Order is served, and, if the account or other Asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other Asset was remitted; and
3. The identification 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 by any Defendant; and

D. Upon the request of Plaintiff’s counsel or the Receiver, promptly provide Plaintiff’s counsel and the Receiver with copies of all records or other Documents pertaining to any account or Asset of any of the Defendants, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign Assets specifically required by this Order.

V. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that any Defendant who has not yet provided financial disclosures in accordance with Section V of the TRO, shall immediately prepare and deliver to the FTC’s counsel and the Receiver:

- A. completed financial statements on the forms attached to this Order as **Attachment A** (Financial Statement of Individual Defendant) for each Individual Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for each Corporate Defendant; and

1 B. completed **Attachment C** (IRS Form 4506, Request for Copy of a Tax
2 Return) for each Individual and Corporate Defendant.

3 **VI. FOREIGN ASSET REPATRIATION**

4 **IT IS FURTHER ORDERED** that to the extent not already completed pursuant to
5 the TRO, each Defendant shall immediately:

6 A. Provide Plaintiff's counsel and the Receiver with a full accounting, verified
7 under oath and accurate as of the date of the TRO, of all Assets, Documents, and accounts
8 outside of the United States which are: (1) titled in the name, individually or jointly, of
9 any Defendant; (2) held by any person or entity for the benefit of any Defendant or for the
10 benefit of any corporation, partnership, asset protection trust, or other entity that is directly
11 or indirectly owned, managed or controlled by any Defendant; or (3) under the direct or
12 indirect control, whether individually or jointly, of any Defendant;

13 B. Take all steps necessary to provide Plaintiff's counsel and Receiver access
14 to all Documents and records that may be held by third parties located outside of the
15 territorial United States of America, including signing the Consent to Release of Financial
16 Records appended to this Order as **Attachment D**.

17 C. Transfer to the territory of the United States all Documents and Assets
18 located in foreign countries which are: (1) titled in the name, individually or jointly, of any
19 Defendant; (2) held by any person or entity for the benefit of any Defendant or for the
20 benefit of, any corporation, partnership, asset protection trust, or other entity that is directly
21 or indirectly owned, managed or controlled by any Defendant; or (3) under the direct or
22 indirect control, whether individually or jointly, of any Defendant ; and

23 D. The same business day as any repatriation, (1) notify the Receiver and
24 counsel for Plaintiff of the name and location of the financial institution or other entity that
25 is the recipient of such Documents or Assets; and (2) serve this Order on any such financial
26 institution or other entity.

27 **VII. NON-INTERFERENCE WITH REPATRIATION**

28 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents,
employees, and attorneys, and all other persons in active concert or participation with any

1 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
2 hereby preliminarily restrained and enjoined from taking any action, directly or indirectly,
3 which may result in the encumbrance or dissipation of foreign Assets, or in the hindrance
4 of the repatriation required by this Order, including, but not limited to:

5 A. Sending any communication or engaging in any other act, directly or
6 indirectly, that results in a determination by a foreign trustee or other entity that a “duress”
7 event has occurred under the terms of a foreign trust agreement until such time that all
8 Defendants’ Assets have been fully repatriated pursuant to this Order; or

9 B. Notifying any trustee, protector or other agent of any foreign trust or other
10 related entities of either the existence of this Order, or of the fact that repatriation is
11 required pursuant to a court order, until such time that all Defendants’ Assets have been
12 fully repatriated pursuant to this Order.

13 **VIII. CONSUMER CREDIT REPORTS**

14 **IT IS FURTHER ORDERED** that the FTC may obtain credit reports concerning
15 any Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C.
16 1681b(a)(1), and that, upon written request, any credit reporting agency from which such
17 reports are requested shall provide them to Plaintiff.

18 **IX. PRESERVATION OF RECORDS**

19 **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers, agents,
20 employees, and attorneys, and all other persons in active concert or participation with any
21 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
22 hereby preliminarily restrained and enjoined from:

23 A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering,
24 transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents
25 that relate to: (1) the business, business practices, Assets, or business or personal finances
26 of any Defendant; (2) the business practices or finances of entities directly or indirectly
27 under the control of any Defendant; or (3) the business practices or finances of entities
28 directly or indirectly under common control with any other Defendant; and

1 B. Failing to create and maintain Documents that, in reasonable detail,
2 accurately, fairly, and completely reflect Defendants' incomes, disbursements,
3 transactions, and use of Defendants' Assets.

4 **X. PRESERVATION OF RECORDS BY THIRD PARTIES**

5 **IT IS FURTHER ORDERED** that any person who receives actual notice of this
6 Order (by service or otherwise) that has held, controlled, or maintained custody of any
7 Document on behalf of any Defendant that relates to the business or business practices of
8 any Defendant or of any directly or indirectly under the control of any Defendant are hereby
9 preliminarily restrained and enjoined from destroying, erasing, falsifying, writing over,
10 mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner,
11 directly or indirectly, any such Documents.

12 **XI. REPORT OF NEW BUSINESS ACTIVITY**

13 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents,
14 employees, and attorneys, and all other persons in active concert or participation with any
15 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
16 hereby preliminarily restrained and enjoined from creating, operating, or exercising any
17 control over any business entity, whether newly formed or previously inactive, including
18 any partnership, limited partnership, joint venture, sole proprietorship, or corporation,
19 without first providing Plaintiff's counsel and the Receiver with a written statement
20 disclosing: (1) the name of the business entity; (2) the address and telephone number of
21 the business entity; (3) the names of the business entity's officers, directors, principals,
22 managers, and employees; and (4) a detailed description of the business entity's intended
23 activities.

24 **XII. TAMPERING**

25 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents,
26 employees, and attorneys, and all other persons in active concert or participation with any
27 of them, who receive actual notice of this Order, whether acting directly or indirectly, are
28 hereby preliminarily restrained and enjoined from, in the course of this proceeding:

1 A. Using or attempting to use force, the threat of force, or payment to influence,
2 delay, or prevent the testimony of any person;

3 B. Causing or inducing, or attempting to cause or induce, any person to:

- 4 1. withhold testimony, or withhold a Document or other object;
- 5 2. alter, destroy, mutilate, or conceal any Document or other object with
6 intent to impair the integrity or availability of the item;
- 7 3. evade legal process summoning that person to appear as a witness, or
8 to produce Document(s) or other object(s); or
- 9 4. be absent from an official proceeding to which that person has been
10 summoned by legal process.

11 **XIII. RECEIVER**

12 **IT IS FURTHER ORDERED** that Kimberly I. Friday, Esq, shall continue as
13 receiver of the Receivership Entities with full powers of an equity receiver. The Receiver
14 shall be solely the agent of this Court in acting as Receiver under this Order.

15 **XIV. DUTIES AND AUTHORITY OF RECEIVER**

16 **IT IS FURTHER ORDERED** that the Receiver is directed and authorized to
17 accomplish the following:

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

22 B. Take exclusive custody, control, and possession of all Assets and Documents
23 of, or in the possession, custody, or under the control of, any Receivership Entity, wherever
24 situated;

25 C. Take exclusive custody, control, and possession of all Documents or Assets
26 associated with credits, debits, or charges made on behalf of any Receivership Entity,
27 wherever situated, including reserve funds held by payment processors, credit card
28 processors, merchant banks, acquiring banks, independent sales organizations, third party
processors, payment gateways, insurance companies, or other entities;

1 D. Conserve, hold, manage, and prevent the loss of all Assets of the
2 Receivership Entities, and perform all acts necessary or advisable to preserve the value of
3 those Assets. The Receiver shall assume control over the income and profits therefrom
4 and all sums of money now or hereafter due or owing to the Receivership Entities. The
5 Receiver shall have full power to sue for, collect, and receive, all Assets of the Receivership
6 Entities and of other persons or entities whose interests are now under the direction,
7 possession, custody, or control of, the Receivership Entities. Provided, however, that the
8 Receiver shall not attempt to collect any amount from a consumer, without prior Court
9 approval, if the Receiver believes the consumer's debt to the Receivership Entities has
10 resulted from the deceptive acts or practices or other violations of law alleged in the
11 Complaint in this matter, without prior Court approval;

12 E. Obtain, conserve, hold, manage, and prevent the loss of all Documents of the
13 Receivership Entities, and perform all acts necessary or advisable to preserve such
14 Documents. The Receiver shall: divert mail; preserve all Documents of the Receivership
15 Entities that are accessible via electronic means (such as online access to financial accounts
16 and access to electronic documents held onsite or by Electronic Data Hosts, by changing
17 usernames, passwords or other log-in credentials); take possession of all electronic
18 Documents of the Receivership Entities stored onsite or remotely; take whatever steps
19 necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital
20 Forensic Unit, as the FTC may provide in its discretion, for the purpose of obtaining
21 electronic documents stored onsite or remotely.

22 F. Choose, engage, and employ attorneys, accountants, appraisers, and other
23 independent contractors and technical specialists, as the Receiver deems advisable or
24 necessary in the performance of duties and responsibilities under the authority granted by
25 this Order;

26 G. Make payments and disbursements from the receivership estate that are
27 necessary or advisable for carrying out the directions of, or exercising the authority granted
28 by, this Order, and to incur, or authorize the making of, such agreements as may be
necessary and advisable in discharging her duties as Receiver. The Receiver shall apply to

1 the Court for prior approval of any payment of any debt or obligation incurred by the
2 Receivership Entities prior to the date of entry of the TRO, except payments that the
3 Receiver deems necessary or advisable to secure Assets of the Receivership Entities, such
4 as rental payments;

5 H. Take all steps necessary to secure and take exclusive custody of each location
6 from which the Receivership Entities operate their businesses. Such steps may include,
7 but are not limited to, any of the following, as the Receiver deems necessary or advisable:
8 (1) securing the location by changing the locks and alarm codes and disconnecting any
9 internet access or other means of access to the computers, servers, internal networks, or
10 other records maintained at that location; and (2) requiring any persons present at the
11 location to leave the premises, to provide the Receiver with proof of identification, and/or
12 to demonstrate to the satisfaction of the Receiver that such persons are not removing from
13 the premises Documents or Assets of the Receivership Entities. Law enforcement
14 personnel, including, but not limited to, police or sheriffs, may assist the Receiver in
15 implementing these provisions in order to keep the peace and maintain security. If
16 requested by the Receiver, the United States Marshal will provide appropriate and
17 necessary assistance to the Receiver to implement this Order and is authorized to use any
18 necessary and reasonable force to do so;

19 I. Take all steps necessary to prevent the modification, destruction, or erasure
20 of any web page or website registered to and operated, in whole or in part, by any
21 Defendants, and to provide access to all such web page or websites to Plaintiff's
22 representatives, agents, and assistants, as well as Defendants and their representatives;

23 J. Enter into and cancel contracts and purchase insurance as advisable or
24 necessary;

25 K. Prevent the inequitable distribution of Assets and determine, adjust, and
26 protect the interests of consumers who have transacted business with the Receivership
27 Entities;
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1 L. Make an accounting, as soon as practicable, of the Assets and financial
2 condition of the receivership and file the accounting with the Court and deliver copies
3 thereof to all parties;

4 M. Institute, compromise, adjust, appear in, intervene in, defend, dispose of,
5 accept or direct service of process for, or otherwise become party to any legal action in
6 state, federal or foreign courts or arbitration proceedings as the Receiver deems necessary
7 and advisable to preserve or recover the Assets of the Receivership Entities, or to carry out
8 the Receiver's mandate under this Order, including but not limited to, actions challenging
9 fraudulent or voidable transfers;

10 N. Issue subpoenas to obtain Documents and records pertaining to the
11 Receivership, and conduct discovery in this action on behalf of the receivership estate, in
12 addition to obtaining other discovery as set forth in this Order;

13 O. Open one or more bank accounts at designated depositories for funds of the
14 Receivership Entities. The Receiver shall deposit all funds of the Receivership Entities in
15 such designated accounts and shall make all payments and disbursements from the
16 receivership estate from such accounts. The Receiver shall serve copies of monthly
17 account statements on all parties;

18 P. Maintain accurate records of all receipts and expenditures incurred as
19 Receiver;

20 Q. Allow the Plaintiff's representatives, agents, and assistants, as well as
21 Defendants and their representatives, reasonable access to the premises of the Receivership
22 Entities, or any other premises where the Receivership Entities conduct business. The
23 purpose of this access shall be to inspect and copy any and all books, records, Documents,
24 accounts, and other property owned by, or in the possession of, the Receivership Entities
25 or their agents. The Receiver shall have the discretion to determine the time, manner, and
26 reasonable conditions of such access;

27 R. Allow the Plaintiff's representatives, agents, and assistants, as well as
28 Defendants and their representatives, reasonable access to all Documents in the possession,
custody, or control of the Receivership Entities;

1 S. Cooperate with reasonable requests for information or assistance from any
2 state or federal civil or criminal law enforcement agency;

3 T. Suspend business operations of the Receivership Entities if in the judgment
4 of the Receiver such operations cannot be continued legally and profitably;

5 U. If the Receiver identifies a nonparty entity as a Receivership Entity, promptly
6 notify the entity as well as the parties, and inform the entity that it can challenge the
7 Receiver's determination by filing a motion with the Court. Provided, however, that the
8 Receiver may delay providing such notice until the Receiver has established control of the
9 nonparty entity and its assets and records, if the Receiver determines that notice to the
10 entity or the parties before the Receiver establishes control over the entity may result in the
11 destruction of records, dissipation of assets, or any other obstruction of the Receiver's
12 control of the entity; and

13 V. If in the Receiver's judgment the business operations cannot be continued
14 legally and profitably, take all steps necessary to ensure that any of the Receivership
15 Entities' web pages or websites relating to the activities alleged in the Complaint cannot
16 be accessed by the public, or are modified for consumer education and/or informational
17 purposes, and take all steps necessary to ensure that any telephone numbers associated with
18 the Receivership Entities cannot be accessed by the public, or are answered solely to
19 provide consumer education or information regarding the status of operations.

20 W. Reactivate shipping to sell what remains of Success By Health's inventory
21 if, in the judgment of the Receiver, such sales can occur legally and profitably.

22 **XV. RECEIVER'S REPORTS**

23 **IT IS FURTHER ORDERED** that the Receiver must:

24 A. File a report with the Court every three months, with the first report due no
25 later than May 12, 2020, containing:

- 26 1. A summary of the Receiver's operations;
- 27 2. An inventory of the receivership Assets and their estimated value;
- 28 3. The Receiver's receipts and disbursements;

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- 4. A list of all known creditors with their addresses and the amounts of their claims;
- 5. The steps the Receiver intends to take to protect receivership Assets, recover receivership Assets from third parties, and adjust receivership liabilities;
- 6. The Receiver’s recommendation for a continuation or discontinuation of the Receivership, or for changes to the Receivership, and the reasons for the recommendations; and
- 7. Any other matters that the Receiver believes should be brought to the Court’s attention.

XVI. TRANSFER OF RECEIVERSHIP PROPERTY TO THE RECEIVER

IT IS FURTHER ORDERED that, to the extent not already completed pursuant to the TRO, Defendants and any other person, with possession, custody or control of property of, or records relating to, the Receivership Entities shall, upon notice of this Order by personal service or otherwise, fully cooperate with and assist the Receiver in taking and maintaining possession, custody, and control of the Assets and Documents of the Receivership Entities and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All Assets held by or for the benefit of the Receivership Entities;
- B. All Documents or Assets associated with credits, debits, or charges made on behalf of any Receivership Entity, wherever situated, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities;
- C. All Documents of or pertaining to the Receivership Entities, including all communications occurring via electronic mail, electronic messaging service, or encrypted messaging service (including Silent Circle or WhatsApp);

1 D. All computers, electronic devices, mobile devices, and machines used to
2 conduct the business of the Receivership Entities, even if such computers, electronic
3 devices, mobile devices, and machines are also used for non-business purposes;

4 E. All Assets and Documents belonging to other persons or entities whose
5 interests are under the direction, possession, custody, or control of the Receivership
6 Entities; and

7 F. All keys, codes, user names and passwords necessary to gain or to secure
8 access to any Assets or Documents of or pertaining to the Receivership Entities, including
9 access to their business premises, means of communication, accounts, computer systems
10 (onsite and remote), Electronic Data Hosts, encrypted messaging services (including Silent
11 Circle and WhatsApp), or other property.

12 In the event that any person or entity fails to deliver or transfer any Asset or
13 Document, or otherwise fails to comply with any provision of this Section, the Receiver
14 may file an Affidavit of Non-Compliance regarding the failure and a motion seeking
15 compliance or a contempt citation.

16 **XVII. PROVISION OF INFORMATION TO RECEIVER**

17 **IT IS FURTHER ORDERED** that, to the extent not already completed pursuant
18 to the TRO, Defendants shall immediately provide to the Receiver:

19 A. A list of all Assets and accounts of the Receivership Entities that are held in
20 any name other than the name of a Receivership Entity, or by any person or entity other
21 than a Receivership Entity;

22 B. A list of all agents, employees, officers, attorneys, servants and those persons
23 in active concert and participation with the Receivership Entities, or who have been
24 associated or done business with the Receivership Entities; and

25 C. A description of any documents covered by attorney-client privilege or
26 attorney work product, including files where such documents are likely to be located,
27 authors or recipients of such documents, and search terms likely to identify such electronic
28 documents.

1 **XVIII. COOPERATION WITH THE RECEIVER**

2 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities; Defendants’
3 or Receivership Entities’ officers, agents, employees, and attorneys, all other persons in
4 active concert or participation with any of them, and any other person with possession,
5 custody, or control of property of or records relating to the Receivership entities who
6 receive actual notice of this Order shall fully cooperate with and assist the Receiver. This
7 cooperation and assistance shall include, but is not limited to, providing information to the
8 Receiver that the Receiver deems necessary to exercise the authority and discharge the
9 responsibilities of the Receiver under this Order; providing any keys, codes, user names
10 and passwords required to access any computers, electronic devices, mobile devices, and
11 machines (onsite or remotely) and any cloud account (including the specific methods to
12 access that account) or electronic file in any medium; advising all persons who owe money
13 to any Receivership Entity that all debts should be paid directly to the Receiver; and
14 transferring funds at the Receiver’s direction and producing records related to the Assets
15 and sales of the Receivership Entities.

16 **XIX. NON-INTERFERENCE WITH THE RECEIVER**

17 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities; Defendants’
18 or Receivership Entities’ officers, agents, employees, attorneys, and all other persons in
19 active concert or participation with any of them, who receive actual notice of this Order,
20 and any other person served with a copy of this Order, are hereby preliminarily restrained
21 and enjoined from directly or indirectly:

22 A. Interfering with the Receiver’s efforts to manage, or take custody, control, or
23 possession of, the Assets or Documents subject to the receivership;

24 B. Transacting any of the business of the Receivership Entities;

25 C. Transferring, receiving, altering, selling, encumbering, pledging, assigning,
26 liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession
27 or custody of, or in which an interest is held or claimed by, the Receivership Entities; or

28 D. Refusing to cooperate with the Receiver or the Receiver’s duly authorized
agents in the exercise of their duties or authority under any order of this Court.

1 **XX. STAY OF ACTIONS**

2 **IT IS FURTHER ORDERED** that, except by leave of this Court, during the
3 pendency of the receivership ordered herein, Defendants, Defendants’ officers, agents,
4 employees, attorneys, and all other persons in active concert or participation with any of
5 them, who receive actual notice of this Order, and their corporations, subsidiaries,
6 divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers and
7 other persons seeking to establish or enforce any claim, right, or interest against or on
8 behalf of Defendants, and all others acting for or on behalf of such persons, are hereby
9 enjoined from taking action that would interfere with the exclusive jurisdiction of this
10 Court over the Assets or Documents of the Receivership Entities, including, but not limited
11 to:

12 A. Filing or assisting in the filing of a petition for relief under the Bankruptcy
13 Code, 11 U.S.C. § 101 *et seq.*, or of any similar insolvency proceeding on behalf of the
14 Receivership Entities;

15 B. Commencing, prosecuting, or continuing a judicial, administrative, or other
16 action or proceeding against the Receivership Entities, including the issuance or
17 employment of process against the Receivership Entities, except that such actions may be
18 commenced if necessary to toll any applicable statute of limitations; or

19 C. Filing or enforcing any lien on any asset of the Receivership Entities, taking
20 or attempting to take possession, custody, or control of any Asset of the Receivership
21 Entities; or attempting to foreclose, forfeit, alter, or terminate any interest in any Asset of
22 the Receivership Entities, whether such acts are part of a judicial proceeding, are acts of
23 self-help, or otherwise.

24 Provided, however, that this Order does not stay: (1) the commencement or
25 continuation of a criminal action or proceeding; (2) the commencement or continuation of
26 an action or proceeding by a governmental unit to enforce such governmental unit’s police
27 or regulatory power; or (3) the enforcement of a judgment, other than a money judgment,
28 obtained in an action or proceeding by a governmental unit to enforce such governmental
unit’s police or regulatory power.

1 **XXI. COMPENSATION OF THE RECEIVER**

2 **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by the
3 Receiver as herein authorized, including counsel to the Receiver and accountants, are
4 entitled to reasonable compensation for the performance of duties pursuant to this Order
5 and for the cost of actual out-of-pocket expenses incurred by them, from the Assets now
6 held by, in the possession or control of, or which may be received by, the Receivership
7 Entities. The Receiver shall file with the Court and serve on the parties periodic requests
8 for the payment of such reasonable compensation, with the first such request filed no more
9 than 60 days after the date of entry of the TRO. The Receiver shall not increase the hourly
10 rates used as the bases for such fee applications without prior approval of the Court.

11 **XXII. RECEIVER'S BOND**

12 **IT IS FURTHER ORDERED** that the Receiver is not required to file with the
13 Clerk of this Court a bond.

14 **XXIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

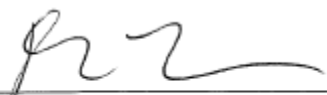
15 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy
16 of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign,
17 member, officer, director, employee, agent, independent contractor, client, attorney,
18 spouse, subsidiary, division, and representative of any Defendant, and shall, within 10 days
19 from the date of entry of this Order and provide Plaintiff and the Receiver with a sworn
20 statement whether this provision of the Order has been satisfied, which statement shall
21 include the names, physical addresses, phone number, and email addresses of each such
22 person or entity who received a copy of the Order. Furthermore, Defendants shall not take
23 any action that would encourage any person who should receive a copy of this Order or
24 any other persons or entities in active concert or participation with them to disregard this
25 Order or believe that they are not bound by its provisions.

26 **XXIV. SERVICE OF THIS ORDER**

27 **IT IS FURTHER ORDERED** that copies of this Order may be served by any
28 means, including facsimile transmission, electronic mail or other electronic messaging,
personal or overnight delivery, U.S. Mail or FedEx, by agents and employees of Plaintiff

1 or the Receiver, by any law enforcement agency, or by private process server, upon any
2 Defendant or any person (including any financial institution) that may have possession,
3 custody or control of any Asset or Document of any Defendant, or that may be subject to
4 any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil
5 Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate, or
6 office of any entity shall effect service upon the entire entity.

7 Dated this 28th day of February, 2020.

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12 Dominic W. Lanza
13 United States District Judge
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