

**IN THE CIRCUIT COURT OF THE SEVENTEETH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

**OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA,**

PLAINTIFF,

CASE NO.: 15-CA-020157(25)

vs.

NETANEL BRUMAND, a/k/a Nate Brumand, an individual; YOSEPH CETTON, a/k/a "Joe" Cetton, a/k/a Joseph Cetton, an individual; BINIAMIN RAM, a/k/a Ben Ram, an individual; PALOMA FALCON-BENITEZ, a/k/a Ana Morales, an individual; MIRI LAZKO, a/k/a Mary Lazko, an individual; AIR CARE SOLUTIONS, L.L.C., a Florida limited liability company; AIR CARE SOLUTIONS, INC., a Florida corporation; AC FOR SALE, L.L.C., a Florida limited liability company; FEBREZ AC, L.L.C., a Florida limited liability company; FLA AC SERVICES AND DUCT CLEANING, L.L.C., d/b/a USAIR AC & DUCT, a Florida limited liability company; and USAIR DUCT AND AC, L.L.C., a Florida limited liability company;

DEFENDANTS, and

**KEREN EDELSBURG, an individual;
MIROLIO, INC., a Florida corporation;
USA WOW, INC., a Florida corporation;
ALIA FACTORY, INC., a Florida corporation; and
ALIA INVESTMENTS, INC., a Florida corporation;**

RELIEF DEFENDANTS.

**ORDER GRANTING TEMPORARY INJUNCTION AND
ASSET FREEZE WITHOUT NOTICE**

This matter came before the Court upon Plaintiff's Motion for Temporary Injunctive Relief and Asset Freeze Without Notice and Incorporated Memorandum in Support of Motion (referred to herein as the "Motion"), pursuant to section 501.207, Florida Statutes, and Florida Rule of Civil Procedure 1.610. The Court, having carefully reviewed the pleadings, Motions and

all related filings, affidavits and accompanying exhibits, and otherwise being fully advised in the premises, finds that:

FACTUAL AND LEGAL FINDINGS

1. This Court has jurisdiction over the subject matter of this case and there is good cause to believe that it will have jurisdiction over all the parties hereto, and venue is proper in this Court.

2. Plaintiff, Office of the Attorney General, Department of Legal Affairs, State of Florida (the "Attorney General" or the "Department"), is authorized to file a motion for injunctive relief as the enforcing authority under the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla. Stat. ("FDUTPA"). § 501.207(1)(b), Fla. Stat.

3. The purpose of a temporary injunction is to preserve the status quo pending the final outcome of the case, and the trial court has broad discretion in granting temporary injunctions. *Brock v. Brock*, 667 So. 2d 310, 311 (Fla. 1st DCA 1995).

4. Generally, a temporary injunction requires a showing that (1) irreparable harm will result if the temporary injunction is not entered; (2) an adequate remedy at law is unavailable; (3) there is a substantial likelihood of success on the merits; and (4) entry of the temporary injunction will serve the public interest. *Sacred Family Investments, Inc. v. Doral Supermarket, Inc.*, 20 So. 3d 412, 415 (Fla. 3d DCA 2009).

5. However, because Florida Statutes Section 501.207(1)(b) expressly authorizes the enforcing authority to seek injunctive relief, Plaintiff "does not have to establish irreparable harm, lack of an adequate legal remedy or public interest." *Millennium Communications & Fulfillment, Inc. v. Office of the Attorney Gen.*, 761 So. 2d 1256, 1260 (Fla. 3d DCA 2000). Therefore, the Attorney General needs only to show a substantial likelihood of success on the

merits: “The Department’s sole burden at a temporary injunction hearing under FDUTPA is to establish that it has a clear legal right to a temporary injunction.” *Id.*

6. To prevail on an action alleging deceptive acts and practices in violation of FDUTPA, the Attorney General must show that “the alleged practice was likely to deceive a consumer acting reasonably in the same circumstances.” *See Office of Attorney Gen. v. Wyndham Int’l, Inc.*, 869 So. 2d 592, 598 (Fla. 1st DCA 2004).

7. FDUTPA also provides that certain acts or practices are unfair or deceptive as a matter of law, and therefore constitute per se violations of the act. These include acts or practices considered unfair or deceptive under either “rules promulgated pursuant to the Federal Trade Commission Act, 15 U.S.C. ss. 41 et seq....”, § 501.203(3)(a), Fla. Stat., or “any law, statute, rule, regulation, or ordinance which proscribes...unfair, deceptive, or unconscionable acts or practices,” § 501.203(3)(c) Fla. Stat. Stat.

8. The Florida Home Solicitation Sale Act, Fla. Stat. §§ 501.031-047, the Federal Trade Commission’s “Door-to-Door Sales Rule”, 16 CFR Part 429, and Florida’s Mold-Related Services Act each are a law, statute, rule, regulation, or ordinance which proscribe...unfair, deceptive, or unconscionable acts or practices.

9. Additionally, §812.035(5), Fla. Stat., authorizes the Attorney General to seek relief for violations of Florida’s Theft Statute, §812.014 , Fla. Stat., including orders for a defendant to divest himself/herself of any interest in any enterprise and imposing reasonable restrictions on the future activities or investments of any Defendant.

10. To establish individual liability under FDUTPA, the Plaintiff must show that the “individual defendant actively participated in or had some measure of control over the corporation’s deceptive practices.” *KC Leisure v. Haber*, 972 So. 2d 1069, 1073 (Fla. 5th DCA 2008); *Wyndham Int’l, Inc.*, 869 So. 2d at 598 (“individual defendant may also be held liable for

consumer redress under the [FTC] Act if they participated directly in the deceptive practices or acts or they possessed the authority to control them.”).

11. Corporate Defendants participating in a common enterprise may be held jointly and severally liable for the injuries caused by their violations of FDUTPA. *See F.T.C. v. Wolf*, 1997-1 Trade Cases P 71, 713 (S.D. Fla. 1996). “When determining whether a common enterprise exists, courts look to multiple factors, including: common control, the sharing of office space and officers, whether business is transacted through ‘a maze of interrelated companies,’ the commingling of corporate funds and failure to maintain separation of companies, unified advertising, and evidence which ‘reveals that no real distinction existed between the Corporate Defendants.’” *Id.* (internal citations omitted)

12. Florida Rule of Civil Procedure 1.610 authorizes ex parte temporary injunctive relief upon a showing that immediate and irreparable injury, loss, or damage will result before the adverse party can be heard in opposition. Further, pursuant to this rule, the party seeking relief must provide written certification that provides the reasons why notice should not be required.

13. Additionally, in a FDUTPA action, upon motion of the Attorney General, the court may make appropriate orders, including, but not limited to, “appointment of a general or special magistrate or receiver or sequestration or freezing of assets, to reimburse consumers ... found to have been damaged; ... to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; ...to order the dissolution or reorganization of any enterprise; or to grant legal, equitable, or other appropriate relief.” § 501.207(3), Fla. Stat.

14. Furthermore, the Court may order equitable relief against persons who have received ill-gotten funds and do not have a legitimate claim to those funds. *See, e.g., F.T.C. v. AmeriDebt, Inc.*, 343 F.Supp.2d 451, 464 (D. Md. 2004).

A. The Attorney General has a legal right to a temporary injunction against the DEFENDANTS and RELIEF DEFENDANTS

15. The Attorney General has established a clear legal right to a temporary injunction against DEFENDANTS NETANEL BRUMAND; YOSEPH CETTON; BINIAMIN RAM; PALOMA FALCON-BENITEZ; and MIRI LAZKO (“Individual Defendants”) and DEFENDANTS AIR CARE SOLUTIONS, L.L.C.; AIR CARE SOLUTIONS, INC.; AC FOR SALE, L.L.C.; FEBREZ AC, L.L.C.; FLA AC SERVICES AND DUCT CLEANING, L.L.C., d/b/a USAIR AC & DUCT; and USAIR DUCT AND AC, L.L.C (“Corporate Defendants”) (collectively the “DEFENDANTS”).

16. The affidavits and accompanying exhibits submitted in support of the Attorney General’s Motion establish that the Attorney General has a substantial likelihood of success on the merits of its allegations that the DEFENDANTS’ acts and practices: (a) were likely to deceive a consumer acting reasonably, and did in fact deceive consumers acting reasonably, in direct violation of FDUTPA; (b) constitute per se FDUTPA violations based on DEFENDANTS’ violations of the Florida Home Solicitation Sale Act, Fla. Stat. §§ 501.031-047, the Federal Trade Commission’s “Door-to-Door Sales Rule”, 16 CFR Part 429, and Florida’s Mold-Related Services Act; and (c) violated Florida’s Civil Theft Statute, §812.014, Fla. Stat.

17. The DEFENDANTS’ alleged unfair, deceptive and/or unconscionable acts and practices include, but are not limited to the following:

- a. deceptively offering and selling to the public air conditioning and heating units, parts and supplies, air conditioning and heating repair, maintenance and installation services, as well as air duct cleaning, dryer vent cleaning and mold remediation services (“AC Services” or “HVAC Services”);
- b. engaging in an unlawful, “bait and switch” scheme, whereby consumers are deceptively coerced into purchasing expensive and/or unnecessary AC Services, which in many cases the consumer never even actually receives;

- c. falsely advertising and offering to provide specific AC Services at significantly discounted prices, which the DEFENDANTS routinely do not provide at the advertised price;
- d. failing to disclose in its advertisements for “discounted” air conditioning services that significant limitations and/or other qualifying conditions are attached to the offer, which essentially negates the “bargin” price;
- e. employing high pressure scare tactics, intimidation and false claims to coerce consumers (many of whom are elderly or otherwise infirm) into paying for expensive, unrequested and/or unnecessary AC Services (such as mold remediation, UV lights, new air conditioning systems and/or parts);
- f. charging consumers for expensive products, services, parts and/or repairs that **THE DEFENDANTS** ultimately do not provide to these consumers.
- g. inducing consumers to purchase yearly or multi-year “maintenance” agreements, which **THE DEFENDANTS** routinely refuse to honor or require the payment of additional fees not previously made known to the consumer;
- h. conducting “home solicitation” and “door-to-door” sales, without obtaining proper permits to conduct such activities; and
- i. conducting “home solicitation” and “door-to-door” sales, without providing consumers with required disclosures concerning, among other things, the consumers’ right to cancel the agreement within three (3) business days.

18. The affidavits and accompanying exhibits submitted in support of the Attorney General’s Motion further established that the Attorney General has a substantial likelihood of success on its allegations that the Individual Defendants operate the Corporate Defendants as a common enterprise and thus, each Corporate Defendant is jointly and severally liable for the above-described FDUTPA and Civil Theft violations.

19. The affidavits and accompanying exhibits submitted in support of the Attorney General’s Motion further established that the Attorney General has a substantial likelihood of success on its allegations that the DEFENDANTS BRUMAND, CETTON, FALON-BENITEZ, RAM, and LAZKO are individually liable for the above-described FDUTPA and Civil Theft violations by the Corporate Defendants.

20. The Attorney General's Motion and supporting evidence provides proof that, at all material times, the Individual DEFENDANTS participated in and/or had actual and/or constructive knowledge of the acts and omissions of the Corporate DEFENDANTS, and/or they directed and controlled, and/or had the ability to control, the Corporate DEFENDANTS' acts and practices.

21. The affidavits and accompanying exhibits submitted in support of the Attorney General's Motion established that the Attorney General has a substantial likelihood of success on its allegations that the RELIEF DEFENDANTS (KAREN EDELSBURG, MIROLIO, INC., USA WOW, INC., ALIA FACTORY, INC., and ALIA INVESTMENTS, INC.) received ill-gotten gains from the Corporate DEFENDANTS, to which they do not have a legitimate claim, and they were unjustly enriched at the expense of Florida consumers.

B. Ex Parte Equitable Relief and Asset Freeze are Warranted

22. The Attorney General's Motion and the affidavits and accompanying exhibits submitted in support of the Motion establish that *ex parte* equitable relief and asset freeze are warranted in this case. The Attorney General's Motion includes an appropriate certification by movant's attorney as to why notice to the DEFENDANTS and RELIEF DEFENDANTS should not be provided, pursuant to Rule 1.610 (a)(1)(B) of the Florida Rules of Civil Procedure. It appears from the Attorney General's Motion and supporting affidavits and exhibits that immediate and irreparable injury, loss, or damage will result before the DEFENDANTS and RELIEF DEFENDANTS can be heard in opposition.

23. During the Attorney General's investigation, the DEFENDANTS failed to produce relevant requested documents relating to the true scope of their activities and transactions with consumers. In response to an investigative subpoena, the DEFENDANTS asserted that they operated their business through Defendant Air Care Solutions, LLC (as a

successor in interest to Defendant Air Care Solutions, Inc.); the DEFENDANTS falsely represented through their counsel that there were no other entities affiliated with Defendant Air Care Solutions, LLC as of about December 18, 2013. At the time, however, the DEFENDANTS had operated, and were continuing to operate, their business as a common enterprise through several additional affiliated entities, which were not disclosed to the Attorney General, nor were relevant records produced relating thereto.

24. In or about May 2014, the DEFENDANTS, through their counsel, represented to the Attorney General that they were selling their AC Services business to an unrelated entity, and were no longer going to be offering or selling such services to the public. Several consumers who subsequently attempted to contact Air Care Solutions, LLC to obtain service under their long term service agreements were told the entity no longer existed. The consumers' complaints filed against Air Care Solution, LLC with the BBB, were also ignored by the Defendants. Nevertheless, the Defendants continued to deceptively market and advertise their AC Services to consumers in the State of Florida and elsewhere through their other affiliated entities, including Febrez AC, LLC and USAIR DUCT AND AC, LLC.

25. Based upon the DEFENDANTS' pattern of deceptive and/or unfair conduct, the need to prevent additional harm to consumers necessitates immediate action in the form of injunctive relief without notice. In addition, as reflected in the Attorney General's certification in its Motion, there is a substantial likelihood that DEFENDANTS and/or RELIEF DEFENDANTS may dissipate or disperse assets before this matter is resolved, thus preventing consumers who have been injured by the DEFENDANTS from receiving equitable relief in the form of restitution .

26. The DEFENDANTS appear to have previously transferred substantial proceeds received from consumers to the RELIEF DEFENDANTS. Accordingly, notice of a hearing on

the Attorney General's Motion would give the DEFENDANTS and RELIEF DEFENDANTS a further opportunity to move and conceal remaining funds and/or destroy evidence.

27. Additionally, the Attorney General's Motion and the supporting affidavits and accompanying exhibits establish that good cause exists to protect the property and assets of the named DEFENDANTS and RELIEF DEFENDANTS (and any other entities owned, operated or controlled by them) from being sold, transferred, alienated or otherwise dissipated until the resolution of the instant proceeding. Accordingly, under the circumstances of this case, a temporary injunction **without notice** is warranted in the public interest, and the preservation of the status quo can best be accomplished by issuance of a asset freeze order.

28. No bond is required to be posted by the Attorney General, pursuant to Florida Rule of Civil Procedure 1.610(b), as this action gives due regard for the public interest.

29. Based on these findings, the Attorney General's Motion for Temporary Injunction and Asset Freeze Without Notice is **GRANTED** as set forth below.

TEMPORARY INJUNCTION AND ASSET FREEZE ORDER

I.

PROHIBITED ACTIVITIES

IT IS HEREBY ORDERED that Defendants NETANEL BRUMAND, YOSEPH CETTON, BINIAMIN RAM, PALOMA FALCON-BENITEZ, MIRI LAZKO, AIR CARE SOLUTIONS, L.L.C., AIR CARE SOLUTIONS, INC., AC FOR SALE, L.L.C., FEBREZ AC, L.L.C., FLA AC SERVICES AND DUCT CLEANING, L.L.C., d/b/a USAIR AC & DUCT, and USAIR DUCT AND AC, L.L.C, and their directors, officers, agents, representatives, affiliates, servants, employees, attorneys and any other person or entity who act under, by, through or on their behalf who receive actual notice of this injunction, are hereby temporarily ENJOINED from:

A. Committing future violations of the FDUTPA, the Home Solicitation Sale Act, the Door-to-Door Sales Rule, the Mold-Related Services Act, and acts of Civil Theft;

B. Engaging in, rendering, accepting payment or otherwise providing services, directly or indirectly, to Florida consumers, relating to any AC Services, including mold assessment or mold remediation services, in the State of Florida, other than those services necessary to lawfully carry out contracts executed prior to the date of the Order, unless and until this Court appoints a general or special magistrate, pursuant to Sections 501.207 and/or 812.035, Fla. Stat., to be paid for by the DEFENDANTS, who will monitor any future business activities of the DEFENDANTS to ensure compliance with this Order and to protect consumer from further damage;

C. Soliciting, marketing, advertising, selling, promoting, representing or otherwise offering, directly or indirectly to Florida consumers any AC Services, including mold assessment or mold remediation services, in the State of Florida, unless and until this Court appoints a general or special magistrate, pursuant to Sections 501.207 and/or 812.035, Fla. Stat., to be paid for by the DEFENDANTS, who will monitor any future business activities of the DEFENDANTS to ensure compliance with this Order and to protect consumer from further damage; and

D. Disclosing, using, or benefitting from consumer information, including name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a consumer's account (including a credit card, bank, or other financial account), of any person which any DEFENDANT obtained prior to this action.

II.

ASSET FREEZE

IT IS FURTHER ORDERED that Defendants NETANEL BRUMAND, YOSEPH CETTON, BINIAMIN RAM, PALOMA FALCON-BENITEZ, MIRI LAZKO, AIR CARE SOLUTIONS, L.L.C., AIR CARE SOLUTIONS, INC., AC FOR SALE, L.L.C., FEBREZ AC, L.L.C., FLA AC SERVICES AND DUCT CLEANING, L.L.C., d/b/a USAIR AC & DUCT, and USAIR DUCT AND AC, L.L.C., and Relief Defendants KAREN EDELSBURG, MIROLIO, INC., USA WOW, INC., ALIA FACTORY, INC., and ALIA INVESTMENTS, INC., and their directors, officers, agents, representatives, affiliates, servants, employees, attorneys and any other person or entity who act under, by, through or on their behalf who receive actual notice of this injunction, are hereby temporarily ENJOINED from:

A. Transferring, liquidating, converting, withdrawing, conveying, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, distributing, assigning, relinquishing, spending, alienating or otherwise disposing of any assets, funds, deposits, real or personal property, accounts, contracts, shares of stock, lists of consumer names, goods, instruments, equipment, fixtures, inventory, motor vehicles, checks, notes, accounts, credits, receivables, cash, trusts (including asset protection trusts), or other assets or funds on deposit or available (including through line of credit or loan) with any bank, savings and loan, or other financial institution, or any interest therein, wherever located, including outside the United States (collectively referred to as “Asset” or “Assets”), that are:

1. Owned, controlled or held, in whole or in part, by any DEFENDANT or RELIEF DEFENDANT (including any legal or equitable interest in, right to, or claim to, any such Asset);
2. held, in whole or in part, for the direct or indirect benefit of, any DEFENDANT or RELIEF DEFENDANT;

3. in the actual or constructive possession of any DEFENDANT or RELIEF DEFENDANT;
 4. owned or controlled by, or 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 or RELIEF DEFENDANT, or of which any such DEFENDANT or RELIEF DEFENDANT is an officer, director, member, or manager. This includes, but is not limited to, any Asset held by, for, or subject to access by, any of DEFENDANT or RELIEF DEFENDANT at any bank or savings and loan institution, or at/with any broker-dealer, escrow agent, title company, insurance company, commodity trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third party processor, payment gateway or other financial institution or depository of any kind;
 5. held by an agent of any DEFENDANT or RELIEF DEFENDANT as a retainer for the agent's provision of services to any such DEFENDANT or RELIEF DEFENDANT; or
 6. held in any account for which any DEFENDANT or RELIEF DEFENDANT is, or was on the date that this Order was signed, an authorized signor. except as necessary to comply with Section XV of this Order;
- B. Opening or causing to be opened any accounts at financial institutions including, but not limited to, safe deposit boxes titled in the name of any DEFENDANT or RELIEF DEFENDANT, or subject to access by any DEFENDANT or RELIEF DEFENDANT;
- C. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of any DEFENDANT or RELIEF DEFENDANT;
- D. Obtaining a personal or other loan encumbering any Asset of any DEFENDANT or RELIEF DEFENDANT;
- E. Incurring liens or encumbrances on real property, personal property or other Asset in the name, singly or jointly, of any DEFENDANT or RELIEF DEFENDANT; and
- F. Cashing any checks from consumers, clients, or customers of any DEFENDANT;
- and

G. Wasting or otherwise dissipating any Asset any DEFENDANT or RELIEF DEFENDANT until further order of this Court.

Included Assets: For purposes of this Section, Assets shall include all Assets of the DEFENDANTS and/or RELIEF DEFENDANTS existing as of the date this Order was entered, and/or any Assets acquired by them following entry of this Order, if such Assets are derived from any activity that is the subject of the Attorney General's Complaint or from any activity that is otherwise prohibited by this Order.

III.

RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS AND OTHER THIRD PARTIES

IT IS FURTHER ORDERED that any and all banking, savings, or brokerage institution or depository, credit card processing agent, escrow agent, title company, commodity trading company, trust, entity, or other financial institution or organization of any kind or person, including, but not limited to, attorneys, accountants, and/or other professional(s) of DEFENDANTS or RELIEF DEFENDANTS, that (a) holds, controls, or maintains custody of any account or Asset owned or controlled, directly or indirectly, by any of the DEFENDANTS and/or RELIEF DEFENDANTS, (b) has held, controlled, or maintained any account or Asset of, or on behalf of, any DEFENDANTS and/or RELIEF DEFENDANTS or (c) possesses any financial information relating to any financial account of any DEFENDANTS and/or RELIEF DEFENDANTS, upon service with a copy of an Order from this Court, shall:

A. **IMMEDIATELY** hold and retain within its control and prohibit DEFENDANTS or RELIEF DEFENDANTS from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, gifting, or otherwise disposing of any accounts, Asset, funds, or other property that are owned by, held in the name of, for the benefit of, or otherwise controlled by, directly or indirectly, any of

DEFENDANTS and/or RELIEF DEFENDANTS, in whole or in part, except as directed by further order of the Court;

B. **IMMEDIATELY** deny the DEFENDANTS and/or RELIEF DEFENDANTS access to any safe deposit box titled in the name of any DEFENDANT and/or RELIEF DEFENDANT, individually or jointly, or subject to access by any DEFENDANT and/or RELIEF DEFENDANT, whether directly or indirectly;

C. **IMMEDIATELY** deny any request from any DEFENDANT and/or RELIEF DEFENDANT to incur charges or cash advances on any credit card, debit card or lines of credit, or to obtain a personal or secured loan in the name, individually or jointly, of any DEFENDANT and/or RELIEF DEFENDANT;

D. **WITHIN FIVE (5) BUSINESS DAYS** after service of a copy of this Order, provide to Plaintiff's counsel (Assistant Attorney General Kristen Pesicek, 110 S.E. 6th Street Fort Lauderdale, Florida 33301), a sworn statement setting forth:

1. the identification number of each such account or **Asset** titled (a) in the name, individually or jointly, of any DEFENDANT and/or RELIEF DEFENDANT; (b) held on behalf of, or for the benefit of, any DEFENDANT and/or RELIEF DEFENDANT; (c) owned or controlled by any DEFENDANT and/or RELIEF DEFENDANT; or (d) otherwise subject to access by any DEFENDANT and/or RELIEF DEFENDANT, directly or indirectly;
2. the balance of each such account, or a description of the nature and value of such **Asset** as of the close of business on the day on which this Order is served;
3. the identification of any safe deposit box that is either titled in the name of any DEFENDANT and/or RELIEF DEFENDANT, or is otherwise subject to access by any DEFENDANT and/or RELIEF DEFENDANT;
4. if an account, safe deposit box, or other **Asset** has been closed or removed, the date closed or removed, the balance on such date, and the manner in which such account or **Asset** was closed or removed; and

E. **WITHIN TEN (10) BUSINESS DAYS** after being served with a request from the Attorney General, including by email and/or fax, provide to Plaintiff's Counsel copies of all documents pertaining to such account or Asset, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. Such institution or custodian may charge a reasonable fee for the cost of production.

IV.

PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that the DEFENDANTS and RELIEF DEFENDANTS, and their directors, officers, agents, representatives, affiliates, servants, employees, attorneys and any other person or entity who act under, by, through or on their behalf who receive actual notice of this injunction, are hereby temporarily ENJOINED from destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, the original and any drafts and/or non-identical copies of any documents or things within the scope of Rule 1.350(a) of the Florida Rules of Civil Procedure, including, but not limited to electronically stored information, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained and translated (hereinafter referred to as "**Documents**"), that relate in any way to the business, business practices, Assets, or business or personal finances of any DEFENDANT or RELIEF DEFENDANT herein, or any entity operating, directly or indirectly, under the control of, or under common control with, any such DEFENDANT or RELIEF DEFENDANT.

V.

IMMEDIATE ACCESS TO BUSINESS PREMISES AND DOCUMENTS

IT IS FURTHER ORDERED that DEFENDANTS, RELIEF DEFENDANTS and their agents, employees, directors, officers, agents, representatives, affiliates, servants, attorneys and any other person or entity who act under, by, through or on their behalf who receive actual notice of this injunction, are hereby ORDERED to:

A. Allow the Attorney General and its representatives, immediate access to:

1. All of the DEFENDANTS' business premises and such other business locations that are wholly or partially owned, rented, leased, or under the temporary or permanent control of any of the DEFENDANTS, including but not limited to, the business premises located at:
 - * 4000 Hollywood Blvd., Suite 135-S, Hollywood, FL;
 - * 1839 SW 31st Ave Building Q Bay 1 Pembroke Park, FL;
 - * 6236 Miramar Parkway, Miramar, FL;
 - * 6244 Miramar Parkway, Miramar, FL; and
 - * 9655 Florida Mining Blvd W. #409 Jacksonville, FL
2. Any other non-residence premises where the DEFENDANTS conduct business, collections operations, or customer service operations;
3. Any non-residence premises where **Documents** related to the DEFENDANTS' businesses and/or **Assets** are stored or maintained;
4. Any non-residence premises where any **Assets** belonging to any of the DEFENDANTS and/or RELIEF DEFENDANTS' are stored or maintained and
5. Any **Documents** located at any premises that pertain to this Section.

B. Provide the Attorney General and their respective representatives with any necessary means of access to, copying of, and forensic imaging of **Documents** or electronically stored information, including, without limitation, the premises described in this section, keys and combinations to business premises locks, computer access codes of all computers used to conduct DEFENDANTS' business, access to (including but not limited to execution of any documents necessary for access to and forensic imaging of) any data stored,

hosted or otherwise maintained by an electronic data host, and storage area access information.

C. The Attorney General shall have the right to remove any **Documents** related to DEFENDANTS' business practices from the above-described premises in order that they may be inspected, inventoried, and copied. The materials so removed shall be returned within ten (10) business days of completing said inventory and copying.

Authority of Law Enforcement: **IT IS FURTHER ORDERED** that any and all law enforcement personnel including, but not limited to, the sheriffs for their respective jurisdictions in Florida where the pertinent premise is located, are authorized to assist the Attorney General in implementing the provisions in this Order as described above in this Section, in order to keep the peace and maintain security. If requested by the Attorney General, such law enforcement personnel shall provide appropriate and necessary assistance to the Attorney General to implement this Order, including the Break Order provisions described below, and are authorized to use any necessary and reasonable force to do so.

Break Order: **IT IS FURTHER ORDERED** that any and all law enforcement personnel including, but not limited to, the sheriffs for their respective jurisdictions in Florida where the pertinent premise is located, shall, if requested by the Attorney General, make demand for entry into the DEFENDANTS' business premises and/or any other non-residence premises described above in this Section, including, but not limited to the premises located at:

- * 4000 Hollywood Blvd., Suite 135-S, Hollywood, FL;
- * 1839 SW 31st Ave Building Q Bay 1 Pembroke Park, FL;
- * 6236 Miramar Parkway, Miramar, FL;
- * 6244 Miramar Parkway, Miramar, FL; and
- * 9655 Florida Mining Blvd W. #409 Jacksonville, FL

If entry into any of these premises is refused or otherwise not forthcoming, or no one is at the location at the time of enforcement of the Court's Order, such law enforcement personnel

shall use the force of the County to break and enter that premises or any structure or enclosure located at that premises as described above in this Section, to execute this Order and to remove all persons from said premises during such immediate access.

VI.

DISABLEMENT OF WEBSITES

IT IS FURTHER ORDERED that any party hosting any webpage or website for any of the DEFENDANTS and any domain registrar who has provided or is providing domain name registration services on behalf of any of the DEFENDANTS, upon service with a copy of an Order from this Court, shall:

A. **IMMEDIATELY** take whatever steps necessary to ensure that any webpage or website operated, in whole or in part, in connection with the DEFENDANTS' advertising, offering, selling or providing of HVAC services (including, but not limited to, www.aircare-solutions.com; www.aircareus.com; www.acforsale.com; www.febrezair.com; www.febrezac.com; and www.us-airduct.com) cannot be accessed by the public until further Order of this Court;

B. Prevent the destruction or erasure of any webpage or website operated, in whole or in part, on any DEFENDANTS' behalf, preserving such **Documents** in which they are currently maintained, and prevent the destruction or erasure of all records relating to the DEFENDANTS; and

C. Immediately notify Plaintiff's counsel, in writing, of any other Internet website operated or controlled by any Defendant.

VII.

DISCONNECTION OF TELEPHONE NUMBERS

IT IS FURTHER ORDERED that any telephone service provider for any of the DEFENDANTS, including but not limited to Voice Over Internet Protocol and telecommunications service providers and toll-free forwarding services, who has provided or is providing telephone services on any DEFENDANTS' behalf, upon service with a copy of an Order from this Court, shall immediately disconnect from service any telephone or fax number operated, in whole or in part, in connection with the DEFENDANTS' advertising, offering, selling or providing of HVAC services until further Order of this Court.

VIII.

REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that within **FIVE (5) business days** following the service of this Order, each DEFENDANT and RELIEF DEFENDANT shall:

A. Provide the Office of the Attorney General with a full accounting of all **Assets**, accounts and **Documents** located outside of the territory of the United States which are held, individually or jointly, (1) by any DEFENDANT and/or RELIEF DEFENDANT; (2) for the benefit of any DEFENDANT and/or RELIEF DEFENDANT; (3) in trust by or for any DEFENDANT and/or RELIEF DEFENDANT; or (4) under the direct or indirect control of any of the DEFENDANT or RELIEF DEFENDANT;

B. Transfer to within the State of Florida all **Assets**, accounts and **Documents** that are subject to Paragraph A, above, of this Section, and provide to the Office of the Attorney General a detailed statement setting forth the nature, value and location of such repatriated **Assets**, accounts and **Documents**;

C. Provide the Attorney General access to all records of **Assets**, accounts or **Documents** of any DEFENDANT and/or RELIEF DEFENDANT held by any financial institutions or other entities or individuals located outside the United States by signing any and all necessary forms to permit such access.

Incorporation by Reference: All such foreign **Assets**, accounts and **Documents** are subject to the Asset Freeze and Preservation of Records Requirements of this Order, including Sections II through IV, above.

IX.

NONINTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that the DEFENDANTS and RELIEF DEFENDANTS are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of funds, **Documents**, or **Assets** held outside of the United States, or in the hindrance of the repatriation required by the preceding Section of this Order, including, but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning, text messaging, or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement until such time that all **Assets** have been fully repatriated pursuant to the preceding paragraph of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time that all **Assets** have been fully repatriated pursuant to the preceding paragraph of this Order.

X.

IMMEDIATE PRODUCTION OF BUSINESS RECORDS

IT IS FURTHER ORDERED that within **FIVE (5) BUSINESS DAYS** following the service of this Order, each **DEFENDANT** and **RELIEF DEFENDANT** shall produce to Plaintiffs for inspection, inventory, and/or copying, at a location designated by Plaintiffs, all **Documents** that relate to, reflect and/or concern any and all business activities conducted by any of the Corporate Defendants, or by any other entity owned or controlled by any of the **DEFENDANTS** (“Affiliates”) that has, directly or indirectly, offered any HVAC Services to consumers and/or received any proceeds from consumers relating to such services, since January 1, 2011, including, but not limited to the following materials:

- A. All sales or marketing materials relating to any HVAC Services;
- B. All customer information, including names, phone numbers, addresses, e-mail addresses, customer lists, agreements, and payment and refund information for all consumers who have purchased any HVAC Services, or any other goods or services, directly or indirectly, from any of the Corporate Defendants or Affiliates;
- C. All Documents related to the Corporate Defendants’ association with the **RELIEF DEFENDANTS** and/or Affiliates, including but not limited to, all communications and financial transactions between any of them;
- D. All complaints, including all refund requests, from customers, whether sent directly to the **DEFENDANTS** or received through any law enforcement agency or third-party organizations such as the Better Business Bureau, and any responses from the **DEFENDANTS**;
- E. All accounting information, including sales data, profit and loss statements, annual reports, receipt books, ledgers, reports generated by accounting software, and names and

contact information for all accounting professionals retained or utilized by or on behalf of any of the Corporate Defendants or Affiliates;

F. All **Documents** relating to any account or safe deposit box opened or maintained at any bank or other financial institution (wherever located) by or on behalf of any of the Corporate Defendants or Affiliates, including but not limited to, all statements, correspondence, deposit or withdrawal items, cancelled checks, wire transfers and/or any other communication relating thereto;

G. Recordings of any sales calls or customer service calls;

H. All computers and electronic data, in whatever form, used by any of the Corporate Defendant and/or Affiliates, as well as all access codes, passwords, log-in information, and equipment needed to access such material. The DEFENDANTS shall also (i) notify Plaintiff's counsel of the name and location of any person or entity that is hosting, storing, or otherwise maintaining electronic data ("Electronic Data Host") related the Corporate Defendants' operations; and (ii) serve this Order on any such person or entity. The DEFENDANTS shall also provide such Electronic Data Host with their consent for the Attorney General and its agents to receive access to the Corporate Defendant's data for forensic imaging and the DEFENDANTS shall execute any documents and otherwise cooperate as necessary to facilitate such access.

The Attorney General may extend the date required for production, but shall return any material produced pursuant to this Section within **TEN (10) business days** of the DEFENDANTS' and/or RELIEF DEFENDANTS' production, unless that DEFENDANT or RELIEF DEFENDANT consents to an extension of the return date.

XI.

EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, notwithstanding the time periods, notice provisions, and other requirements of the Florida Rules of Civil Procedure, the Attorney General is granted leave, at any time after entry of this Order, to conduct limited expedited discovery as to parties and non-parties for the purpose of discovering: (1) the nature, source, location, status, and extent of DEFENDANTS' and/or RELIEF DEFENDANTS' Assets; (2) the nature and location of Documents reflecting the DEFENDANTS' businesses, business transactions, and operations; or (3) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. Plaintiff may take the depositions of parties and/or non-parties upon a minimum of forty-eight (48) hours notice;

B. Plaintiff may serve upon parties requests for production of documents or inspection that require production or inspection within five (5) calendar days of service and may serve subpoenas upon non-parties that direct production or inspection within five (5) calendar days of service;

C. Plaintiff may serve deposition notices and other discovery requests upon the parties to this action by e-mail, facsimile or overnight courier and depositions may be taken by telephone or other remote electronic means;

D. If a DEFENDANT or RELIEF DEFENDANT fails to appear for a properly noticed deposition or fails to comply with a request for production or inspection, that DEFENDANT or RELIEF DEFENDANT may be prohibited from introducing evidence at any subsequent hearing relating to this Temporary Injunction and Asset Freeze Order; and

E. Any depositions taken pursuant to this Section shall not preclude Plaintiffs from subsequently deposing the same person or entity in accordance with the Florida Rules of Civil Procedure; any deposition taken pursuant to this subsection that has not been reviewed and signed by the deponent may be used by any party for purposes of any hearing relating to this Temporary Injunction and Asset Freeze Order.

XII.

REQUIRED SUBMISSIONS

IT IS FURTHER ORDERED that **within FIVE (5) days** after service of a copy of this Order, the DEFENDANTS and RELIEF DEFENDANTS shall provide to Plaintiff's counsel (Assistant Attorney General Kristen Pesicek, 110 S.E. 6th Street Fort Lauderdale, Florida 33301):

A. A notarized, written statement, setting forth in detail: (1) the name and address (mailing and street location) of each business entity or organization (including unincorporated entities doing business as or operating under a fictitious name) through which any of the DEFENDANTS or RELIEF DEFENDANTS have, directly or indirectly, offered or sold any HVAC Services to any consumer since January 1, 2011; (2) a description of each DEFENDANTS' or RELIEF DEFENDANTS' relationship to, or affiliation with, such business entity or organization (including, any position(s) held as an owner, officer, manager, director, employee, authorized signatory, agent or representative); (3) a description of the services they have provided to such business entity or organization (including, any but not limited to, managerial services, advertising or marketing, qualifying services, and/or licensing or permitting activities with any government offices or agencies); and 4) the name and address of all financial institutions where they have been listed as an authorized signer on any financial account opened or maintained by, or in the name of, such business entity or organization.

B. Completed and accurate financial statements on the forms attached to this Order as **Attachment A** (Financial Statement of Individual Defendant) for themselves individually, and **Attachment B** (Financial Statement of Corporate Defendant) for each business entity or organization under which they conduct business or of which they are an officer, manager or owner, and for each trust for which any DEFENDANT or RELIEF DEFENDANT is a trustee. The financial statements shall be accurate as of the date of entry of this Order and signed under penalty of perjury. Each DEFENDANT or RELIEF DEFENDANT shall include in the financial statements all information requested in the statements, including a full description of all funds and **Assets**, whether located inside or outside of the United States, that are: (a) titled in the name of such DEFENDANT or RELIEF DEFENDANT, jointly, severally, or individually; (b) held by any person or entity for the benefit of such DEFENDANT or RELIEF DEFENDANT; or (c) under the direct or indirect control of such DEFENDANT or RELIEF DEFENDANT. The DEFENDANTS and RELIEF DEFENDANTS shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements

C. A completed and accurate Credit Report Authorization and Release Form, which is appended to this Order as Form C.

D. A completed and accurate request for Transcript of Tax Return, IRS Form 4506-T for the prior four years, which shall identify the Florida Office of the Attorney General, 110 S.E. 6th Street Fort Lauderdale, Florida 33301, as a third party to which the transcript or tax information should be mailed, which Form is appended to this Order as Form D.

E. A completed and accurate statement, verified under oath, of all payments, transfers, assignments or other disposition of any **Assets** worth \$1,000 or more made by any DEFENDANT or RELIEF DEFENDANT since January 1, 2011. Such statement shall include:

(a) the amount transferred or assigned; (b) the name and address of each transferee or assignee; (c) the date of the transfer or assignment; (d) the type and amount of consideration paid to the DEFENDANT and/or RELIEF DEFENDANT; and (e) the name and address of any financial institution and/or brokerage firm involved in any such transaction.

F. A completed and accurate statement, verified under oath, specifying the name and address of each financial institution and/or brokerage firm at which the DEFENDANT or RELIEF DEFENDANT has opened or maintained any account and/or safe deposit box since January 1, 2011 (including both foreign and/or domestic institutions/firms), and describing the nature and current value of any Assets held in any such account and/or safe deposit box.

XIII.

ACTIVITIES REQUIRING NOTIFICATION

IT IS FURTHER ORDERED that the DEFENDANTS and RELIEF DEFENDANTS shall notify the ATTORNEY GENERAL of the following:

A. Prior to creating, operating, or exercising any control over any new business entity or organization, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, corporation or unincorporated entity, each DEFENDANT and/or RELIEF DEFENDANT involved shall first provide Plaintiff's counsel with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

B. Prior to making any material change in the structure of any business entity or organization owned or controlled by any DEFENDANT(S) and/or RELIEF DEFENDANT(S), such as incorporation, dissolution, assignment, sale, merger, creation or dissolution of

subsidiaries, filing of a bankruptcy petition, change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Order, each DEFENDANT and/or RELIEF DEFENDANT involved shall notify Plaintiff's counsel of the change at least thirty (30) days prior to the effective date of any such proposed change; provided, however, that with respect to any proposed change about which such DEFENDANT or RELIEF DEFENDANT learns less than thirty (30) days prior to the date such action is to take place, that DEFENDANT and/or RELIEF DEFENDANT shall notify the Attorney General as soon as is practicable after learning of such proposed change.

C. Any change in a DEFENDANT and/or RELIEF DEFENDANT's residence, mailing addresses, and/or telephone numbers shall be reported by such DEFENDANT or RELIEF DEFENDANT within ten (10) days of the date of such change.

D. Any change in a DEFENDANT and/or RELIEF DEFENDANT's employment status (including self-employment) shall be reported within ten (10) days of such change, and shall include the name and address of each business that such DEFENDANT or RELIEF DEFENDANT is affiliated with or employed by, and describe the nature of the business and the duties and responsibilities of the position held.

XIV.

AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Attorney General is authorized to monitor the DEFENDANTS' compliance with this Order, without further leave of the Court, by any all lawful means, including but not limited to, the use of agents or representatives posing as consumers to any of the DEFEDNANTS, or their employees, or to any other entity managed or controlled in whole or in part by any of the DEFEDNANTS, without the necessity of identification or prior notice.

XV.

DUTY TO DISTRIBUTE ORDER

IT IS FURTHER ORDERED that each DEFENDANT and RELIEF DEFENDANT, upon being served with a copy of this Order, shall: (A) immediately provide a copy of this Order to each of its parent companies, holding companies, divisions, subsidiaries, affiliates, successors, assigns, directors, officers, managers, employees, agents, attorneys, independent contractors, spouses, representatives and authorized signatory to bank accounts; and (B) within **FIVE (5) BUSINESS DAYS** from such service provide the ATTORNEY GENERAL with a written, sworn statement that: (1) confirms that the DEFENDANT and/or RELIEF DEFENDANT has complied with this provision of the Order; and (2) lists the names and addresses of each entity and/or individual that was provided a copy of this Order.

XVI.

SERVICE AND NOTICE OF ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by agents or employees of the Attorney General, or any state or federal law enforcement agency, or by private process server, by any means, including, facsimile transmission, electronic mail, personal or overnight delivery, first class mail, electronic messaging service, or text message, on: (i) any of the DEFENDANTS and/or RELIEF DEFENDANTS; (ii) any Financial Institution or natural person, organization, legal entity or other group or combination acting as an entity (hereinafter “**Person**”) that holds, controls, or maintains custody of any **Documents** or **Assets** of any DEFENDANT or RELIEF DEFENDANT; or (iii) any other Financial Institution or **Person** that may be subject to any provision of this Order. Service upon any branch or office of any Financial Institution or legal entity shall effect service upon the entire Financial Institution or entity.

XVII.

GENERAL PROVISIONS

IT IS FURTHER ORDERED that:

A. This Court retains jurisdiction of this matter for all purposes, including the construction, modification and/or enforcement of this Order.

B. A hearing shall be held within **FIVE (5)** days after the DEFENDANTS or RELIEF DEFENDANTS apply for a hearing on a motion to dissolve or modify the temporary equitable relief granted by the Court, as computed under Rule 1.090 of the Florida Rule of Judicial Administration.

C. No bond is required to be posted by the Attorney General, pursuant to Florida Rule of Civil Procedure 1.610(b) based on the Court's finding that this action gives due regard for the public interest.

D. This Court may Order such other and further relief as deemed just and proper by this Court.

DONE AND ORDERED in Chambers, at Broward County, Florida, on this 9 day of

December, 2015.


CAROL-LISA PHILLIPS
CIRCUIT JUDGE

CAROL-LISA PHILLIPS
DEC 09 2015
A TRUE COPY