

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-60907-CIV-MORENO

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

JEREMY LEE MARCUS, *et al.*,

Defendants.

**RECEIVER'S UNOPPOSED SECOND MOTION FOR AUTHORITY
TO SELL CERTAIN LAKE WORTH REAL PROPERTY
AND RETAIN REAL ESTATE BROKER**

Jonathan E. Perlman, “Permanent Receiver” over the Receivership Defendants¹ (the “Receiver”), files this Second Motion for Authority to Sell Certain Lake Worth Real Property and Retain Real Estate Broker (the “Motion”), and states:

1. On May 8, 2017, the Federal Trade Commission (“FTC”) and the Office of the Attorney General, State of Florida, Department of Legal Affairs (“State of Florida”) (collectively, “Plaintiffs”), commenced this action by filing a complaint for permanent injunction

¹The “Receivership Defendants” means Financial Freedom National, Inc. f/k/a Institute for Financial Freedom, Inc. and Marine Career Institute Sea Frontiers, Inc. also d/b/a 321 Loans, Instahelp America, Inc., Helping America Group, United Financial Support, Breeze Financial Solutions 321Financial Education, Credit Health Plan, Credit Specialists of America, American Advocacy Alliance, and Associated Administrative Services; 321Loans, Inc., f/k/a 321 Loans, Inc. also d/b/a 321Financial, Inc.; Instahelp America, Inc. f/k/a Helping America Team, Inc. also d/b/a Helping America Group; Breeze Financial Solutions, Inc. also d/b/a Credit Health Plan and Credit Maximizing Program; US Legal Club, LLC; Active Debt Solutions, LLC f/k/a Active Debt Solutions, Inc. also d/b/a Guardian Legal Center; Guardian LG, LLC also d/b/a Guardian Legal Group; American Credit Security, LLC f/k/a America Credit Shield, LLC; Paralegal Support Group LLC f/k/a Paralegal Support LLC; and Associated Administrative Services, LLC also d/b/a Jobfax, and their divisions, subsidiaries, affiliates, predecessors, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them. The Receivership Defendants were expanded to include Viking Management Services, LLC, Cockburn & Associate LLC, Omni Management Partners LLC, Discount Marketing USA, S.A., JLMJP Pompano, LLC, Nantucket Cove of Illinois, LLC, Halfpay International, LLC, Halfpay NV, LLC, HP Properties Group, Inc., HP Media, Inc., White Light Media LLC, Blue42, LLC as Additional Receivership Entities. (“Expansion Order”) [ECF No. 102].

and other relief (the “Complaint”) and a motion for a temporary restraining order and other equitable relief alleging that Jeremy Lee Marcus, Craig Davis Smith, Yisbet Segrea (collectively, the “Individual Defendants”), the Receivership Defendants violated Sections 5(a), of the FTC Act, 15 U.S.C. § 45(a), the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310 and the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2016), Fla. Stat. § 501.201 *et seq.* and the Telemarketing Act, 15 U.S.C. §§ 6101-6108 and the Relief Defendants were joined as recipients of monies or property from these violations.² (the Individual Defendants, Receivership Defendants and Relief Defendants may be referred to herein collectively as the “Defendants”) [ECF No. 1, “Compl.”].

2. On May 17, 2017, the Court entered a Preliminary Injunction directing and authorizing the Receiver to, among other things, “[a]ssume full control of the Receivership Defendants,” and “[t]ake exclusive custody, control, and possession of all assets and documents of, or in the possession, custody, or under the control of, the Receivership Defendants, wherever situated.” [ECF No. 21 at p. 17]. The PI appointing the Receiver initially defined the Receivership as including eleven named “Receivership Defendants,” “and any of their affiliates, subsidiaries, divisions, or sales or customer service operations, wherever located...” [ECF No. 21 at p.17].

² Following the Expansion Order, the “Relief Defendants” are 1609 Belmont Place LLC; 16 S H Street Lake Worth, LLC; 17866 Lake Azure Way Boca, LLC; 114 Southwest 2nd Street DBF, LLC; 110 Gloucester St., LLC; 72 SE 6th Ave., LLC; Fast Pace 69 LLC; Strategic Acquisitions Two, LLC; Halfpay International d/b/a16 H.S. Street 12Plex LLC, 311 SE 3rd St., LLC, 412 Bayfront Drive, LLC, 110 Gloucester St., LLC, 72 SE 6th Ave., LLC, 114 SW 2nd Street JM, LLC, 8209 Desmond Drive, LLC, HLFP, LLC, Halfpay NV d/b/a Halfpay International, and Nantucket of Illinois, LLC. as well as any successors, assigns, subsidiaries, fictitious business entities, or business names created or used by these entities, or any of them. Plaintiffs’ amended complaint specifically names the Defendants as Receivership Defendants or Relief Defendants as determined by the Expansion Order. [ECF No. at ¶¶ 28-38]. The amended complaint also adds Teresa Duda, Jack Marcus and James Marcus as additional Relief Defendants. *Id.* at ¶¶ 39-41.

3. On July 31, 2017, the Court entered an order granting the Receiver's Agreed Motion to Expand Receivership over 12 additional entities [ECF No. 102] and Agreed Motion to Turn Over and Transfer Title to Certain Real Property and Sale Proceeds [ECF No.100].³

4. The PI provides that the Receiver shall conserve, hold and manage all receivership assets, and perform all acts necessary or advisable to preserve the value of those assets, in order to prevent irreparable loss, damage or injury to consumers or creditors of the Receivership Defendants. [ECF No. 21 at p. 18].

5. The Receiver, by this Motion, seeks the Court's authority to sell the property located at 16 South H Street, Lake Worth, Florida 33460 (the "Property"). The Property is a 12-plex, and is operated as a licensed adult rehabilitation facility with "micro units" and shared kitchens and bathrooms and is known as the Bluebird Residences. A single lease exists for the entire property between 16 S H Street Lake Worth, LLC and Bluebird Residences, LLC, commencing December 1, 2016 with an expiration date of November 31 (sic), 2017. The monthly rent is \$11,686.25 plus utilities and is current. The Receiver is currently negotiating an extension of the existing lease, with a right of first refusal, with the current tenant who has expressed an interest in purchasing the Property.

6. The Property's owner of record was 16 H Street Lake Worth Business Trust. Pursuant to the Turnover Motion, the Property was recently transferred to the Receiver.

³1410 SW 3rd St. Pompano Beach, FL 33069; 1609 Belmont Place Boynton Beach, FL 33436; 630 SE 25th Ave. Fort Lauderdale, FL 33301; 114 SW 2nd St. Delray Beach, FL 33444; 603 Renaissance Lane Delray Beach, FL 33483; 16 S H Street 1 Lake Worth, FL 33460; 422 Bayfront Drive Boynton Beach, FL 33435; 111 SW 2nd St. Delray Beach, FL 33444; 116 SW 2nd St. Delray Beach, FL 33444; 80 Nottingham Place Boynton Beach, FL 33426; 211 SE 4th Ave. Delray Beach, FL 33483; 311 SE 3rd St. Delray Beach, FL 33483; 7190 Brickyard Cir., Lake Worth, FL 33467; 225 N H Street 1 Lake Worth, FL 33460; 221 N H Street 1 Lake Worth, FL 33460; and 219 N H Street 1 Lake Worth, FL 33460.

7. Bluebird Residences, LLC, or its assigns, has provided the Receiver with a Letter of Intent to purchase the Bluebird Residences for \$700,000. The Receiver, by this Motion, seeks the Court's authority to sell the Property and retain a broker to assist him in selling the Property.

8. Moecker Realty, who, besides being an experienced real estate brokerage firm, has familiarized itself with the Property and has advised the Receiver that the current market for this Property is relatively strong. Marketing the Bluebird Residences now when there is an offer to purchase provides a baseline for the sale and will best allow the Receiver to maximize value. Based upon the advice of Moecker Realty, the Receiver is considering listing the Property for sale at a price of \$899,000.00.

9. After considering the various options available, the Receiver finds it to be in the best interests of the Receivership Estate to market the Bluebird Residences at this time, and sell it at the highest and best price. Accordingly, the Receiver requests that the Court enter an order authorizing it to do so.

10. In addition to authority to market and sell the Bluebird Residences, the Receiver by this Motion seeks authority to retain Moecker Realty as his real estate broker for the marketing and sale of this Property. The PI authorizes the Receiver to choose, engage and employ attorneys, accountants, appraisers and any other independent contractors and technical specialists, as the Receiver deems advisable or necessary, in the performance of duties and responsibilities under the authority granted by this order. [ECF. No. 21 at p. 19.]. Nonetheless, the Receiver seeks court approval of Moecker in an abundance of caution.

11. Moecker Realty, as set forth in Exhibit "A", has extensive experience in both the commercial and residential markets in Florida and has worked with numerous fiduciaries all over the State of Florida.

12. The Receiver and members of his team have worked with Moecker Realty in the

past and found the firm to provide excellent service and results.

13. Moecker Realty has agreed to the following commission structure in connection with the sale of the Bluebird Residences: no commission if the Bluebird Residences is sold to Bluebird Residence, LLC, or its assigns for \$700,000; a reduced commission of 5% for a sale to any third party, other than Bluebird Residences, LLC, that is greater than \$720,000; or a reduced commission of 5% for a sale to Bluebird Residences, LLC, or its assigns, only on sale proceeds in excess of \$700,000.00.

14. The Receiver, by way of this Motion, seeks the Court's authority to sell the Property at the highest and best price and to retain Moecker Realty to act as the Receiver's Broker.

15. The Receiver has conferred with counsel for the FTC and the Office of the Attorney General, State of Florida, who have no position on the relief sought. Marcus, Smith and Segrea have authorized the Receiver to state that they have no objection to the relief sought herein.

WHEREFORE, the Receiver, Jonathan E. Perlman, Esq., respectfully requests this Court to enter an order granting the Receiver authority to market and sell the Bluebird Residences, to retain the Moecker Realty Firm as his Real Estate Broker, and for such other and further relief as is just and proper.

Respectfully submitted on December 11, 2017.

GENOVESE JOBLOVE & BATTISTA, P.A.

Attorneys for Court-Appointed Receiver

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By: /s/ Gregory M. Garno

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CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record and entities identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Gregory M. Garno

Gregory M. Garno

SERVICE LIST

Federal Trade Commission v. Jeremy Lee Marcus, et al.
USDC, SD Fla., Case No. 17-cv-60907-MORENO

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EXHIBIT A



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PROFESSIONAL BACKGROUND
Michael Moecker & Associates, Inc. (MMA)
Case Administrator, Real Estate & Finance

SVN Moecker Realty Auctions (SVN Moecker)
Broker Associate & Advisor

Will Reynoso oversees the case management of the firm's real estate and financial related cases. He has over seven years experience involving matters related to Receiverships, Bankruptcy, Assignment for the Benefit of Creditors, and Probate Estate among other insolvency and liquidation matters. He assists both in-house and outside Receivers, Trustees, Curators, Plan Administrators and Assignees – including corresponding debtors, creditors, beneficiaries and personal representatives – in connection with the purchase and sale of commercial real property.

Mr. Reynoso is a graduate of the University of Miami, where he developed his interest in real estate and obtained a Bachelors degree in Business Administration specializing in Real Estate and Finance. Mr. Reynoso completed his graduate work at Nova Southeastern University's H. Wayne Huizenga School of Business and Entrepreneurship obtaining a Masters in Business Administration with a concentration in Real Estate Development. Will Reynoso is a Dale Carnegie graduate. Recent case work and real estate assignments include:

- *Organic Dynamics*, Case No. 14-15597 CA 40, Receivership – Although this industrial property appeared to be in good condition and benefited from liberal I-1X zoning, the Receiver was confronted with several issues; including the building being designated as an unsafe structure, Florida Department of Environmental Protection, Pompano Beach and Broward County liens and fees exceeding \$300k, the building being stripped of all of its electrical copper wiring by professional burglary, and Ownership and Partnership disputes. Mr. Reynoso and the Moecker team were able to close on a final contract price of \$1,732,500.
- *Windmill Reserve Corp.*, Case No. 16-20986-RBR, Bankruptcy – As real estate broker Mr. Reynoso managed and marketed 22 developed lots in Weston, FL. Mr. Reynoso assisted the debtor in obtaining a final purchase price of \$5,950,000 plus the assumption of \$200,000 traffic signalization letter of credit, for a net value of \$6,150,000.
- *Kennelly Companies Bankruptcy (Remi Hillsboro, LLC, Hillsboro Mile Properties, LLC, & Enclave at Hillsboro, LLC)*, 15-26155-EPK, Chapter 11 Bankruptcy – SVN Moecker was hired as the Exclusive Listing Broker to auction two Hillsboro Beach oceanfront properties as part of a § 363 sale. The combined sales price totaled \$13,950,000.
- *Estate of Victor Posner*, Case No. 02-595-CP, Probate – Mr. Reynoso assists the Curator with, among many other tasks, marshalling the decedent's assets while protecting Estate assets in the best interest of the estate. The estate owned, either directly or indirectly hundreds of parcels of all property types including industrial, golf course, office, developed residential lots, and vacant land throughout Florida, Maryland, and Pennsylvania.
- *Waterfront Terrace Developers*, Case No. 16-2014-CA-003167, Receivership – Will Reynoso assisted the Receiver with a stalled townhouse and single-family development project, the real property subject of a foreclosure action. Through extensive marketing efforts, Will Reynoso was able to identify a local builder in which a joint venture agreement was established to reposition the property and complete the development.
- *Fred McGilvray, Inc.*, Case No. 2015-004902-CA 40, Assignment for the Benefit of Creditors - Consulted with Assignee on various matters, including the disposition of the industrial real property for the benefit of the secured and unsecured creditors.
- *BlueChip Energy, LLC*, Case No. 6:13-cv-657-JA-KRS, Receivership - Originally the Owner filed for an Assignment for the Benefit of Creditors. The case was converted into a Receivership when the secured creditor filed a motion to appoint a Receiver. The property presented a few challenges as there was a solar panel mount

system for a 40 MW solar panel farm installed on a portion of the property made up of helical anchors. Assisted the Receiver as sales agent for a final sales price of \$1,182,500.

- Gaslight Square, Inc., Case No.: 8:12-bk-14765-KRM, Chapter 11 Bankruptcy – Moecker Realty was employed as Property Manager, Auctioneer, and Broker where Mr. Reynoso assisted the Debtor with listing, marketing, managing, and auctioning substantially all of the Debtor's assets including certain real estate owned by the Debtor. The Retail/Office complex was sold for \$2,025,000 well above the then appraised as-is market value of \$1,800,000.



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PROFESSIONAL BACKGROUND
Michael Moecker & Associates, Inc.
Case Administrator

Moecker Realty Inc.
Broker Associate

A native Floridian, Terry Keller has been a successful real estate agent in South Florida for over 21 years since 1996. Mr. Keller holds a CAM license and primary focus is to assisted Receivers, Trustees, and Assignees with real property matters. Accordingly, he is well versed in “seeing through” any litigation haze and dispute issues that the real property may be embroiled in while focusing on the tasks at hand. As a member of Moecker Realty, Inc., Mr. Keller has sold a wide range of property types throughout Florida and has extensive experience with marshalling assets through the various court systems. He was previously in the mortgage business for 10 years. He also spent many years in Sales & Management in the jewelry business.

Recent case work and real estate assignments include:

- *Fred McGilvray, Inc.*, Case No. 2015-004902-CA 40, Assignment for the Benefit of Creditors – As broker Mr. Keller assisted the Assignee with the sale of an industrial property for \$780,000.
- *SEC vs Frederic Elm f/k/a Frederic Elmaleh*, Case No. 16-62603-CIV-DIMITROULEAS, Receivership – Assisted the Receiver with sale of a single family residence in Fort Lauderdale, FL for \$1,640,000.
- *West Edge Inc, West Edge II Inc & Duval at Gulf Harbors LLC*, Case # 8:14-bk-05847-MGW, Bankruptcy – Mr. Keller has sold a combination of 24 commercial and residential properties throughout Pasco & Citrus Counties ranging from \$41,000 to \$500,00.
- *HWA Properties Inc.*, Case No.: 9: 9:14-bk-11774-FMD, Bankruptcy – Employed as Broker and assisted the Chapter 11 Trustee with the sale of single-family lots within a luxury development called Tarpon Estates in Tarpon Point, Cape Coral, FL. Accomplished the sale of 5 of the 13 lots for the Bankruptcy estate. BCB Homes Inc. acquired the remaining 8 lots and enlisted Mr. Keller to continue as the listing broker. So far Mr. Keller has sold all but one of the lots for total sales of \$4,445,000 on behalf of BCB Homes.
- *Miramar Parkway Plaza Partners, LLC f/k/a Abel Homes at Keys Winds, LLC*, Case No.: 13-15072-RAM, Chapter 7 Bankruptcy – Assisted the Bankruptcy Trustee as Property Manager with the management and leasing of a 155,000+ SF shopping center. Mr. Keller was able to build working relationships with the tenants, decrease vacancies by renegotiating leases, created a cleanup and operating budget, managed the maintenance and repairs on deferred maintenance to rejuvenate the property in preparation of a sale.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-60907-CIV-MORENO

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

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JEREMY LEE MARCUS, *et al.*,

Defendants.

**ORDER GRANTING RECEIVER'S UNOPPOSED SECOND MOTION FOR
AUTHORITY TO SELL CERTAIN LAKE WORTH REAL PROPERTY
AND RETAIN REAL ESTATE BROKER**

THIS CAUSE comes before the Court on Jonathan E. Perlman, “Permanent Receiver” over the Receivership Defendants¹ (the “Receiver”), Unopposed Second Motion for Authority to Sell Certain Lake Worth Real Property and Retain Real Estate Broker (the “Motion”) [ECF No. ____], and the Court, having reviewed the Motion and finding good cause to grant the Motion:

ORDERS AND ADJUDGES:

1. The Motion is GRANTED.

¹ Pursuant to the Preliminary Injunction Order (the “PI”), the “Receivership Defendants” mean Financial Freedom National, Inc. f/k/a Institute for Financial Freedom, Inc. and Marine Career Institute Sea Frontiers, Inc. also d/b/a 321 Loans, Instahelp America, Inc., Helping America Group, United Financial Support, Breeze Financial Solutions, 321Financial Education, Credit Health Plan, Credit Specialists of America, American Advocacy Alliance, and Associated Administrative Services, 321Loans, Inc., f/k/a 321 Loans, Inc. also d/b/a 321Financial, Inc., Instahelp America, Inc. f/k/a Helping America Team, Inc. also d/b/a Helping America Group, Breeze Financial Solutions, Inc. also d/b/a Credit Health Plan and Credit Maximizing Program, US Legal Club, LLC, Active Debt Solutions, LLC f/k/a Active Debt Solutions, Inc. also d/b/a Guardian Legal Center, Guardian LG, LLC also d/b/a Guardian Legal Group, American Credit Security, LLC f/k/a America Credit Shield, LLC, Paralegal Support Group LLC f/k/a Paralegal Support LLC, and Associated Administrative Services, LLC also d/b/a Jobfax, and their divisions, subsidiaries, affiliates, predecessors, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them. [ECF No. 21, pg. 5].

2. The Receiver is authorized to market and sell the Lake Worth Property located at 16 South H Street, Lake Worth, Florida 33460 (the "Property") and is authorized to retain Moecker Realty as his real estate broker for such purpose.

DONE AND ORDERED in Chambers at Miami, Florida this ____ day of _____
2017.

FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to Counsel of Record.