

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 MOTION FOR AUTHORITY TO SELL
CERTAIN VEHICLES**

Jonathan E. Perlman, “Permanent Receiver” over the Receivership Defendants¹ (the “Receiver”), files this Motion for Authority to Sell a 2014 Tesla Model S 85 Performance (“Tesla”), a 2015 Range Rover Autobiography (“Range Rover”), a 2015 BMW i8 (“BMW”), a 2003 Blue Bird School Bus and a 2006 Intergenesees School Bus (together “the School Buses”) (The Range Rover, Tesla, BMW and the School Buses are herein collectively referred to as the “Vehicles”) (the “Motion”), and states:

1. On May 8, 2017, the Federal Trade Commission (“FTC”) and the Office of the

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].

Attorney General, State of Florida, Department of Legal Affairs (“State of Florida”) (collectively, “Plaintiffs”), commenced this action by filing a complaint for permanent injunction 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 later joined as having received assets that can be traced directly to the Receivership Defendants’ deceptive acts or practices and have no legitimate claim to those assets.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 (“PI”) 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,

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.

subsidiaries, divisions, or sales or customer service operations, wherever located...” [ECF No. 21 at p.17].

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 (“Turnover Motion”)[ECF No.100].³

4. The PI provides that the Receiver shall conserve, hold and manage all receivership assets (the “Receivership Estate”), 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].

THE TESLA

5. On October 27, 2014, Receivership Defendant Active Debt Solutions purchased the Tesla for over \$117,000. Defendant Jeremy Marcus gave the Tesla to Defendant Craig Smith to drive as his personal vehicle. On August 17, 2017, the Receiver made demand on Mr. Smith, through counsel, to turn over the Tesla to the Receiver. Mr. Smith cooperated with the Receiver and on August 21, 2017 delivered the Tesla to Eric Rubin of Moecker & Associates (“Moecker”), the Receiver’s auctioneer, and taken to a secure storage facility.

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.

THE RANGE ROVER

6. On August 4, 2015, Receivership Defendant Paralegal Staff Support purchased the Range Rover for \$140,000. Although the vehicle was titled in the name of Receivership Defendant Paralegal Staff Support, Defendant Jeremy Marcus used this car for personal uses commencing on August 17, 2017. The Receiver made multiple demands on Marcus, through counsel, to turn over the Range Rover to the Receiver. Ultimately, on November 8, 2017, Receiver's counsel picked up the Range Rover at Jeremy Marcus' residence, and the Receiver has stored the Range Rover at Moecker.

THE BMW

7. On February 17, 2015, Receivership Defendant Halfpay wired \$133,564.07 to Braman Motors for the purchase of BMW. The car was titled in Jeremy Marcus' name and he used it as one of his personal vehicles. The Receiver's forensic accountant performed a tracing analysis confirming that the sole source of funds for the BMW was consumer funds. After Marcus refused the Receiver's demand for turnover, on December 27, 2017, the Receiver filed a Motion to Compel Turnover of BMW [ECF No. 182] which the Court granted on January 8, 2018 [ECF No. 197]. On February 1, 2018 Marcus turned over the BMW to the Receiver, and it is being kept at Moecker.

THE SCHOOL BUSES

8. On June 22, 2015, Receivership Defendant HalfPay purchased in the name of Paralegal Support, LLC two school buses and a shuttle bus for \$35,000 from Tampa Bus Market, Inc.⁴ Significant improvements were made to the School Buses to transform them into "Party Buses". On July 1, 2015, \$7,500 was paid to upgrade the seats in the School Buses and an additional \$22,366 was paid to upgrade the sound system, upgrade the air conditioning systems,

⁴ The shuttle bus was sold March 30, 2016 for \$8,750 to Word of Living God Ministries.

add wood floors, and install special lighting, DVD players and TV screens. The School Buses are located at 1410 SW 3rd St. Pompano Beach, FL 33069, the Receivership Defendants' former headquarters.

REQUEST TO MARKET AND SELL VEHICLES

9. After considering the available options, the Receiver finds it to be in the best interests of the Receivership Estate to market and sell the Vehicles.

10. Currently, the Receivership Estate is incurring monthly expenses associated with securing, storing and insuring the Tesla, Range Rover and BMW, which expenses can be eliminated if the Vehicles are sold.

11. Additionally, the Vehicles do not generate revenue and are depreciating assets. Accordingly, continuing to hold the Vehicles will diminish their value to the detriment of the Receivership Estate. Moecker has familiarized itself with the Vehicles and provided the Receiver with its thoughts on value, and has advised the Receiver that a sale at this time provides the best opportunity to maximize value. For all of these reasons, the Receiver requests this Court to enter an order authorizing him to market and sell the vehicles.

12. In addition to authority to market and sell the Vehicles, the Receiver by this Motion seeks authority to retain Moecker as his liquidator for the marketing and sale of the Vehicles. 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.

13. Moecker has extensive experience and has worked with numerous fiduciaries all over the State of Florida. The Receiver and members of his team have worked with Moecker in the past and found the firm to provide excellent service and results.

14. Moecker provided the Receiver with a Marketing Proposal for the Vehicles. Moecker has proposed to conduct an internationally broadcasted on-line and on-site simulcasted auction event to occur on or about March 20, 2018 at the Pompano office complex located at 1410 S.W. 3rd Street, Pompano Beach, Florida 33069. Moecker has advised that the hybrid auction strategy is more economical and is highly effective in achieving the highest dollar amount in a competitive bidding, liquidation scenario. Moecker has provided the Receiver with a detailed proposal and budget for the proposed auction and the Receiver is in the process of analyzing same. The Receiver seeks court authority to not only retain Moecker, but also to execute whatever documents are necessary to facilitate the marketing and sale of the Vehicles.

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. Smith and Segrea have authorized the Receiver to state that they have no objection to the relief sought herein. Despite repeated attempts, the Receiver has been unable to get a position from Marcus on 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 Vehicles, retain Moecker to market and sell the Vehicles, to execute whatever documents are necessary to

facilitate the marketing and sale of the Vehicles and for such other and further relief as is just and proper.

Respectfully submitted this 27th day of February, 2018.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 27, 2018, 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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