

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 14-81397-CIV-MARRA

FEDERAL TRADE COMMISSION and
STATE OF FLORIDA,

Plaintiffs,

v.

BOOST SOFTWARE, INC., et al.,

Defendants.

RECEIVER'S INITIAL STATUS REPORT

Pursuant to the Court's November 12, 2014, Order [D.E. 13], David S. Mandel, the court-appointed Receiver of Vast Tech Support, LLC, OMG Tech Help, LLC, Success Capital, LLC, Jon-Paul Holdings, LLC, and any related entities (together "Vast Corporate Defendants" or "Receivership Entities"), files his Initial Status Report to inform the Court as well as customers and creditors of the Receivership's activities to date.

I. PROCEDURAL BACKGROUND

On November 10, 2014, the Federal Trade Commission (the "FTC") and the Attorney General's Office for the State of Florida (the "AG") (together the "Government") filed a civil complaint in the United States District Court for the Southern District of Florida, charging the Defendants with deceptive business practices and alleging consumer injury of approximately \$22 million dollars. D.E. 1, 4 (the "Complaint"). On November 12, 2014, on the Government's motion, the Court entered a Temporary Restraining Order that, among other things, appointed David S. Mandel as Receiver over the Vast Corporate Defendants (the "T.R.O." or "Receivership Order"), and freezing the Vast Corporate Defendants' assets. D.E. 1, 5, 6, 11, 12 & 13. In the

T.R.O., the Court ordered that a hearing taking place on November 24, 2014, as to why the Court should not enter a preliminary injunction enjoining the violations alleged in the Complaint, and other requested relief. D.E. 13 at 29.

On November 20, 2014, defendant Elliot Loewenstern filed a motion requesting a continuance of the November 24th hearing, together with a briefing schedule regarding the T.R.O.'s individual asset freeze, while extending the expiration of the T.R.O. by 30 days. D.E. 26. On the same day, all parties appeared telephonically at a status conference with the Honorable Kenneth A. Marra. D.E. 22, 23 & 29. The other individual defendants, Mark Donahue and Jon-Paul Vasta, and the Government expressed no objection to delaying the preliminary injunction hearing. Additionally, the Government and the defendants Loewenstern, Donahue, and Vasta (collectively "Individual Vast Defendants"), agreed to extend the Receivership Order regarding the Vast Corporate Defendants until the Court ruled on the preliminary injunction against these Defendants. *Id.* In light of the parties' and Court's schedules during December 2014 and the first week of January 2015, the Court orally granted the request to move the preliminary injunction hearing until after January 5, 2015. *Id.* On November 21, 2014 (then subsequently re-filed on November 25, 2014), the Government filed its motion for a preliminary injunction against all Defendants. D.E. 33, 42, 43; *see also* D.E. 4.¹

¹ Regarding Defendants Boost Software, Inc., and Amit Mehta ("Boost Defendants"), the Government moved for a preliminary injunction, not a temporary restraining order. D.E. 4. At the November 21st status conference, the Boost Defendants requested to go forward with the preliminary injunction hearing on November 24, 2014. *See* D.E. 22. The Court held the hearing against the Boost Defendants, and on November 26, 2014, the Court held that a preliminary injunction should not be issued against the Boost Defendants. D.E. 45.

Consistent with the parties' representations, on November 24, 2014, the Government filed a stipulation signed by the Individual Vast Defendants and the Government agreeing to extend the T.R.O. until the Court ruled on the Government's preliminary injunction motion; in addition, any hearing on the motion would not occur until after January 5, 2015. D.E. 38. The Court approved the stipulation and extension of the T.R.O. D.E. 44.

On December 4, 2014, the Receiver filed an expedited motion seeking the Court's approval to pay the health care premiums of the Vast Corporate Defendants' employees for November and December 2014. D.E. 46. The Government did not object to this motion. *Id.* at 4. Defendant Loewenstern also did not oppose the Receiver's motion. D.E. 48. On December 8, 2014, the Court granted the Receiver's expedited motion. D.E. 49.

In light of the Receiver's forensic accountants' analyses, on December 11, 2014, the Receiver filed a motion to extend the Receivership Estate to include OMG International Group LLC. D.E. 52. The Receiver's accountants' forensic examination of the Receivership Entities' financial records and other documents revealed that the OMG International Group LLC played a significant role in these Defendants' activities. *Id.* 2-3. The Receiver represented that he would be materially hindered in fulfilling his responsibility of recovering funds for victims and creditors of the Receivership Entities if he were not able to assert control over OMG International Group LLC. *Id.* The Government agreed with the relief sought in the motion. *Id.* at 3. This motion is still pending at this time.

II. THE RECEIVER'S ROLE AND RESPONSIBILITIES

The Court directed the Receiver to engage in various activities, including: (1) "[a]ssume full control of the Vast Corporate Defendants . . .;" Receivership Order, Sect. XII. ¶A; (2) "[t]ake exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control, of the Vast Corporate Defendants, wherever situated" and "[t]ake all

steps necessary to secure and take exclusive custody of each location from which the Vast Corporate Defendants operate their businesses;” *Id.*, ¶¶B, C; (3) “[c]onserve, hold, and manage all Assets of the Vast Corporate Defendants;” *Id.*, ¶D; (4) “[c]hoose, engage, and employ attorneys, accountants, appraisers, and 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;” *Id.*, ¶H; (5) “[m]ake payments and disbursements from the receivership estate that are necessary . . . for carrying out the directions of, or exercising the authority granted by, this Order;” *Id.*, ¶I; (6) “apply to the Court for prior approval of any payment of any debt or obligation incurred by the Vast Corporate Defendants prior to the entry of this Order, except payments the Receiver deems necessary or advisable to secure the Assets of the Vast Corporate Defendants, such as rental payments;” *Id.*; (7) “[c]ooperate with reasonable requests for information or assistance from any state or federal civil or criminal law enforcement agency;” *Id.*, ¶U; and (8) “[f]ile timely reports with the Court at reasonable intervals, or as otherwise directed by the Court.” *Id.*, ¶V.

Pursuant to the authority granted in the Receivership Order, the Receiver retained the following professionals to search, recover and protect the Receivership Estate’s corporate assets, and to otherwise untangle the financial and operational affairs: (1) the law firm of Mandel & Mandel LLP; (2) the law firm of Meland Russin & Budwick, P.A. (collectively both law firms referred to as “Counsel”) (3) the forensic accounting firm of KapilaMukamal LLP; and (4) the firm of Andrews International, digital forensics experts (“digital expert” or “Andrews”).

Upon his appointment, the Receiver took immediate possession and control over the Vast Corporate Defendants’ offices, and promptly began the process of marshaling the assets to protect customers’ and creditors’ interests. The Receiver also commenced an inquiry into the business affairs and financial condition of the Vast Corporate Defendants.

To quickly provide information to customers, creditors, and employees, the Receiver established an informational website at omgtechhelp.com, and established an email address: OMGTechhelp-Receiver@mandel-law.com, dedicated to Receivership business. From the beginning of the Receivership, the Receiver provided an outgoing message on all customer service telephone lines providing notice of the Receivership and directing employees, customers and vendors to the Receiver's website. In addition, Mandel & Mandel LLP dedicated an extension on its telephone system for communications relating to the Receivership.

Upon taking control of the Receivership Entities, the Receiver determined that he could not operate the Vast Corporate Defendants' business legally or profitably, and therefore, he suspended the ongoing business operations. Soon after taking over the Vast Corporate Defendants, the Receiver confirmed that the entities' bank accounts were frozen. The Receiver also investigated the status of essential expenses, including rent, insurance, telecommunications, computers and internet access, and others. The Receiver has set forth below the status of his activities, investigation and analysis of the assets of the Vast Corporate Defendants to date.

A. Taking Possession of Receivership Property

Immediately upon his appointment, the Receiver took the following steps to carry out his mandate to take possession of the Receivership property and to protect the estate from further dissipation or liability:

1. Physical Premises and Tangible Assets located at 2855 S. Congress Ave., Suite AB, Delray Beach, Florida 33445

On Thursday, November 14, 2014, at approximately 10:30 a.m., with the assistance of the Delray Beach Police Department, the Receiver took possession of the business premises of the Vast Corporate Defendants located at 2855 S. Congress Avenue, Suite AB, Delray Beach, Florida 33445 (the "corporate office"). At that time, the Receiver took possession of the business

premises, including all property and assets. The Receiver also allowed the Government to enter the premises in order to assist in their investigation of the claims in the Complaint.

The corporate office consisted of four areas in a large one-floor suite that took up the majority of the building:² (1) a main reception area, a conference room, and Defendant Vasta's office, with a window overlooking the main call-in center; (2) an executives' area with seven offices, including Defendants Loewenstern's and Donahue's offices, the marketing and accounting departments, technology manager's office, various cubicles in a shared open area, and a small kitchen; (3) the main call-in sales center containing approximately 56 cubicles equipped with a computer and a phone line, multiple large television screens showing sales goals and achievements on the walls, two large side offices containing additional desks and cubicles with a computer and phone line, four smaller offices, and a kitchen break room; and (4) an IT or technology room, two large sales and technician rooms with approximately 53 cubicles, many equipped with a computer and a phone line, plus two smaller offices and one large office.

Upon taking possession of the premises and with the assistance of the Delray Beach Police, the Receiver changed all locks, turned off on-going security, and disabled all employee key cards, restricting access only to the Receiver's agents. *See* Receivership Order, Sect. XII. ¶J. Additionally, the Receiver's accountants immediately began marshaling the assets and financials of the Receivership Entities, and the Receiver's digital forensic expert began taking control of all technology and any cloud-based electronic information.

All computers, internet, applications, and cable and phone lines were disabled, and the Receiver took possession of all books and records (both electronic and in hard copy) in the name of the Vast Corporate Defendants.

² A smaller suite at the end of the same building, Suite C, is leased by a company that is not related to the Receivership Entities.

2. Securing Electronic Data

As noted above, the Receiver's digital forensic expert from Andrews International was present with the Receiver's agents when the Receiver took possession of the Vast Corporate Defendants' premises. In conjunction with the Government, Andrews immediately took steps to secure the computer system, any running applications, and all electronic information stored at the corporate headquarters and offsite on cloud based services, including backup storage, various business applications, hundreds of phone lines and telecommunications lines, and multiple company email accounts. The digital expert identified all internet circuits and cable and phone lines, and disconnected them. Andrews also extensively interviewed the Vast Corporate Defendants' technology employees to assess the technology structure and to appropriately preserve all information in the most efficient manner.

Due to the highly technical nature of the Receivership Entities' businesses, which allegedly involved technical computer support, customer backup services, periodic software updates, customer phone call recordings, and remote accessing of customers' computers, most of the company's electronic information was stored in the "cloud" and involved significant amounts of data, which, as of today's date, amounts to approximately 7.2 terabytes (7.2 trillion bytes) in both offsite and/or out of the country digital storage. In addition, because the Receivership Entities maintained significant internet and phone line usage in order to sell and maintain their various computer products, there were hundreds of phone lines and customer recordings to secure, preserve, and disable, if necessary. Moreover, to complicate matters, the Individual Vast Defendants intermingled the registered companies that provided services to the Receivership Entities with many non-related entities, and management executives and employees did not have a clear understanding of all the digital and technological service contracts held by the Receivership Entities.

Thus, Andrews researched the identification of all systems containing electronically stored data and spent significant time determining the sources and locations of digital information. Then, Andrews had to separate the Receivership Entities' domains, services and information from unrelated entities, and secure the preservation of the data against outside access, by individually changing the multiple credentials, passwords, account emails and billing contact information for various services. As part of this process, Andrews individually disabled approximately two hundred employee accounts, which restricted access to Receivership entity data, including sensitive customer information, as well as any related phone lines. As a result of his diligent and detailed research, the Receiver's digital expert was able to trace the location, controlling companies, and various sources of cloud-based data, websites, domains, backup servers, applications, phone lines, and the unprocessed customer call recordings or "Five9" recordings from the last two weeks of business.³ In sum, the Receiver's digital expert has secured all currently known locations of electronic data and information.

To the extent necessary, the Receiver continues to maintain certain digital accounts, and Andrews continues to monitor and manage these accounts daily in order to make determinations regarding maintenance, payment and other important notifications. For those accounts where the information has been secured and deemed no longer necessary to preserve the Receivership's assets, the Receiver has canceled the services to remove any unnecessary costs. The Receiver's counsel has also spent considerable amounts of time working with Andrews in contacting vendors, facilitating access to Receivership Entities' accounts, and canceling accounts when necessary.

³ The Receivership Entities stored recordings of communications with customers through the "Five9" system on the corporate office premises, except for the last two weeks of recordings prior to the T.R.O. and the Receiver's appointment. The last two weeks of recordings had not been downloaded when the Receiver took over, and the process for securing that data from a separate company in Canada is underway.

Additionally, Andrews promptly took control of Receivership Entities' internet domain names and related internet websites. With the exception of a few websites,⁴ in excess of one hundred domains were consolidated or re-directed to one internet location, omgtechhelp.com. During the process of redirecting the hundred domains, Andrews tested redirection and public access to ensure proper communication with customers and vendors. Since the creation and set-up of the Receiver's website by the forensic expert, the Receiver has been able to use the "OMG Tech Support" website to disseminate information regarding the Receivership and related litigation to customers and creditors. Pertinent information is posted and links to relevant documents are established so that customers and creditors can keep current with the litigation. Likewise, Andrews posted the Receiver's message on fifty sales and technical support telephone lines to immediately communicate with customers and vendors when the Receiver took possession.

Similarly, Andrews assisted in forensically imaging onsite computers including management or employees' personal laptops, phones and other hardware that contained Receivership Entities' business information, usually mixed with the individual's personal information, and returned proven personal property to employees. On behalf of the Receiver, Andrews has prepared an extensive customer list and facilitated multiple mass email communications with thousands of OMG Tech Help customers, providing them with essential information from the Receiver.⁵

⁴ These websites were redirected to non-working IP addresses, and thus, making them inaccessible to the public, in order to immediately stop transactions with customers, and bar Individual Defendants or employees from accessing the Vast Corporate Defendants' data and disrupting preservation efforts.

⁵ For example, the Receiver prepared a cautionary message to OMG Tech Help customers regarding potential contact by persons claiming to work for OMG Tech Help and seeking to gain access to the customers' computers purportedly to provide refunds, after customers notified the

In summary, Andrews has downloaded 2.5 gigabytes of data from cloud-based storage, and 1.1 terabytes in electronic information and data from other sources, and has preserved all important identified sources of electronic data to date.

B. Theft from the Corporate Offices

On November 21, 2014, the Receiver's digital forensic expert visited the corporate office and found that the side entrance glass door had been smashed, and concluded that the premises had been entered illegally. He called the Delray Beach Police, who responded promptly and secured the premises. The Receiver had the door replaced and re-secured the premises and the assets inside the corporate office. Additionally, the Receiver contacted the landlord and the insurance company, compiled a preliminary list of stolen property, and filed an insurance claim.

C. Investigation of the Affairs of the Vast Corporate Entities

1. Financial Assets

On November 13, 2014 (the "TRO Service Date") the TRO was served on several financial institutions believed to have funds on deposit belonging to the Vast Corporate Defendants. In accordance with Section XIII, the Receiver assumed possession of, closed and received turnover of funds from bank accounts that were identified and maintained in the names of the Vast Corporate Defendants and established new cash accounts in the name of David S. Mandel, as Receiver of: Vast Tech, Success, JP Holdings, and OMG Total Protection, LLC ("OMG TP"). As a result of the Receiver's actions, funds aggregating in excess of \$1.3 million were transferred to the Receivership from the Vast Corporate Defendants' accounts maintained at the following financial institutions:

Receiver of the scam.

Vast Corporate Defendant	Bank / Merchant	Bank Acct #	Amount
JP Holdings	Citi	5856	\$ 9,965.08
OMG TP	Wells Fargo	2057	420.97
OMG TP	Wells Fargo	6110	4,623.02
Success	Wells Fargo	7155	144.02
Success	Wells Fargo	6669	88.75
Vast Tech	Wells Fargo	7668	145,867.56
Vast Tech	Wells Fargo	4531	93,602.52
Vast Tech	Wells Fargo	4523	410,520.25
Vast Tech	RevenueWire		685,182.43
Total			1,350,414.60

2. Overview of Forensic Accountants' Activities

The Receiver's forensic accountants, KapilaMukamal LLP ("KM"), immediately began assisting the Receiver with the investigation and analysis of the Vast Corporate Defendants' books and records, preparation of all necessary Federal and state tax filings, and the Receivership treasury functions, among other tasks. The forensic accountants have spent an extensive amount of time analyzing the financials of the Vast Corporate Defendants, and providing substantial assistance to the Receiver's counsel and the digital expert with requested information necessary for investigation and preservation of assets of the estate.

In particular, KM immediately began interviewing the Vast Corporate Defendants' Operations Manager/Bookkeeper and identified, secured and preserved critical financial accounts and records. The following is a summary of the financial accounts and records KM identified, secured and preserved on the TRO Service Date through the date of this Status Report.

a. Bank Accounts

KM identified Wells Fargo bank accounts in the names of the Vast Corporate Defendants and immediately confirmed with the Legal Order Processing division of Wells Fargo that a freeze on these accounts was in effect. The funds in the Wells Fargo accounts were turned over to the Receivership. KM also identified a JP Holdings Citibank account during its review of the

financial records and confirmed a freeze was placed on the account. The funds in the Citibank account were turned over to the Receivership. The forensic accountants continue to review financial records to determine if additional bank accounts exist.

b. RevenueWire, Inc. (“RevenueWire”)

KM identified and preserved Vast Corporate Defendants’ sales transactions using the online web access from RevenueWire, a third party credit card processing company. RevenueWire collected subscriber fees and other product purchases (“Subscriber Fees and Purchases”) processed with customer credit cards and subsequently paid Vast Corporate Defendants for these sales through its merchant account. RevenueWire turned over approximately \$685,000 in Subscriber Fees and Purchases to the Receiver as of the date of this report. KM is in the process of reviewing and analyzing the Receivership Entities’ sales transaction reports including payments of commissions to Defendant Boost Software, Inc., through RevenueWire.

c. QuickBooks

The Receiver’s forensic accountants identified the QuickBooks (“QB”) online accounts for the Vast Corporate Defendants. KM downloaded the general ledgers for each entity to preserve the transactions, and coordinated with QuickBooks personnel the conversion of the QB online data to QB Pro 2014 in order to back up, copy and preserve the data. KM has utilized this information in order analyze the Vast Corporate Defendants’ financials and provide determinations regarding premiums for health insurance, amount paid and owed to various vendors, amount of payroll, and other relevant financial data to effectively manage the Receivership.

d. Tax Returns

KM identified and secured the 2012 and 2013 Form 1065 tax returns for Vast Corporate Defendants on located in corporate office. Additionally, KM contacted the Vast Corporate

Defendants' accountant at JD Gilbert & Company and obtained the tax returns and tax work papers for Vast Tech and Success for the period 2012 through 2013. The Receiver's forensic accountants are currently investigating the tax returns for Jon-Paul Holdings, LLC, OMG Total Protection, LLC, and any other entities under the Vast Corporate Defendants umbrella.

e. Property and Equipment

As noted above, KM assisted the Receiver in obtaining an inventory and appraisal of the office furniture and equipment at Vast Tech Corporate Office.

f. Unavoidable Payroll Disbursements

When the Receivership Order was served on Wells Fargo on Nov. 13th, the bank was already in the process of distributing a scheduled payroll due to be completed by November 17, 2014. The payroll distribution consisted of salary and commissions for the two-week period from October 16-31, 2014. Through the work of KM, the Receiver learned that the two-week payroll totaled approximately \$456,000 in salary and wages for 238 employees (including two of the named Individual Defendants), plus approximately \$37,000 for the employer tax portion, totaling roughly \$500,000. The bank actually had commenced distributing the payroll on or about November 10, 2014, via direct deposit. As soon as it was served with the T.R.O., the bank began voiding the transactions, and recovered approximately \$410,000, which Wells Fargo turned over to the Receiver.

Despite the bank's best efforts, however, some payroll transfers were completed and irretrievable. Wells Fargo explained that in certain situations (such as if the employee's account was overdrawn, if the employee had already spent the money, or if the money went to a "pay card" that did not allow for ACH debits), the bank could not recover those funds. As a result, approximately \$96,000 was distributed to 61 employees as pay for the last two weeks in October 2014. All other employees were not paid for that period. The Receiver's counsel is addressing

whether any legal steps can be taken to recover any of the lost funds. Nonetheless, by voiding the payroll, the Receiver was able to preserve over \$400,000 of the payroll.

III. FORENSIC ANALYSIS

KM prepared a preliminary analysis of receipts and disbursements from the QuickBook records for the Vast Corporate Defendants and provided the analysis to the Receiver and the FTC. A summary of receipts and disbursements for the Vast Corporate Defendants is illustrated in the following tables:

Vast Tech Support, LLC for the period 1/01/2012 - 11/13/2014	Amount
Receipts:	
Subscriber Fees & Purchases	\$ 27,227,272.81
Insiders\ Related parties	554,037.18
Other	332,838.07
Total Receipts	28,114,148.06
Disbursements:	
Payroll and taxes	17,407,099.92
Other expenses	4,962,583.21
American Express Collection (Note 1)	2,310,708.01
Insiders and related parties	2,704,861.69
	27,385,252.83
Ending Balance	\$ 728,895.23
Note 1: American Express Collection represents charges made to a Vast Tech American Express Corporate Card primarily for business support services.	

Success Capital, LLC for the period 11/21/2012 - 10/31/2014	Amount
Receipts:	
Insiders\ Related parties	\$ 438,706.77
Other - further investigation required	200,064.55
Total Receipts	638,771.32
Disbursements:	
Insiders\ Related parties	559,514.19
IRS	77,016.74
Other	2,007.62
Total Disbursements	638,538.55
Ending Balance	\$ 232.77

OMG Total Protection, LLC for the period from 2/19/2014 - 10/31/2014	Amount
Receipts:	
Insiders\ Related parties	\$ 82,258.55
Other	1.02
Total Receipts	82,259.57
Disbursements:	
Insiders\ Related parties	71,357.31
Other	5,858.27
Total Disbursements	77,215.58
Ending Balance	\$ 5,043.99

Jon-Paul Holdings, LLC for the period 12/24/2012 - 10/16/2014	Amount
Receipts:	
Other - further investigation required	\$ 589,659.04
Insider\ Related parties	7,640.00
Total Receipts	597,299.04
Disbursements:	
Other - further investigation required	261,823.02
Insiders \ Related parties	200,423.19
IRS	67,927.57
Total Disbursements	530,173.78
Ending Balance	\$ 67,125.26

Note - The QB transactions for Success and OMG TP were only entered through October 31, 2014 and JP Holdings through October 16, 2014. The QB ending cash balances are not reflective of the funds actually received by the Receiver.

KM identified receipts and disbursements requiring further investigation and is in the process of researching and analyzing such disbursements as well as disbursements representing potential recoveries to the Receivership. KM made these determinations based on the receipts and disbursements available in the corporate office and in QuickBooks.

IV. Overview of Counsel's Activities

1. Securing premises and interviewing employees

Upon taking possession of the corporate offices, which the Delray Beach police had secured, the Receiver counsel asked all present employees to step outside of the premises, and the Receiver and his counsel escorted individually or in pairs approximately 70 employees (present at the time of the takeover) into the building to remove any personal belongings from their personal work areas. Employees completed questionnaires, were interviewed, and retrieved any personal property; they were then escorted off the premises. This recurred during the first few days of the

Receivership. Counsel prepared a summary of all employees questioned and pertinent information. Regarding any employee who had company information on his or her cell phone or computer, the Receiver's digital expert removed such information from these devices.

Additionally, counsel interviewed the Individual Defendants and key employees regarding financial assets and accounts, insurance, liability insurance, leases, vendors, payroll, related liabilities, and other important issues. These interviews provided essential information to marshal the assets and assist the Receiver in fulfilling his duties under the Receivership Order. Also, counsel reviewed the mail and numerous documents in order to identify important vendors and creditors, including but not limited to health insurance, liability insurance, banks, telecommunications, phone lines, cable, internet, and other electricity.

2. Landlord for Vast Corporate Defendants' Office

On the day the Receiver took possession, counsel met with the landlord's managing agent, provided a copy of the Receivership Order, and requested a copy of the lease. A few days later, the landlord notified the Receiver of his assertion of property and ownership rights over all furniture inside the corporate office, and provided a copy of the lease. In response, Receiver's counsel Receiver notified the landlord that he disputes the landlord's ownership rights to all the furniture in the corporate office. Counsel and forensic accountants have obtained an inventory and appraisal of the assets inside the corporate office. The Receiver's counsel is assessing the legal basis for assertion of ownership of the assets in the corporate office.

3. Access to Vast Corporate Premises and Documents/Information

Counsel posted notices on all entrances to the building regarding the appointment of the Receiver, the shutdown of the business, and the Receiver's contact information. Counsel contacted insurance agents and vendors in order to inform them of the Receivership and to request information regarding services and outstanding invoices. Counsel organized the forwarding of

any Vast Corporate Defendants' mail to the Receiver's office for on-going identification and the management of vendors and creditors. The Receiver's counsel has established a detailed list of creditors and customer/victims that is regularly updated. Further, the Receiver's counsel ran asset searches to marshal entity assets, and identify any related entities.

Counsel provided the Government access to company electronic and hard documents, and facilitated the return of any original hard documents removed for copying by the Government. Counsel initiated and filed the required bond.

In order to protect against any liabilities in the corporate office, counsel arranged for the Receiver become a certificate holder on the liability insurance. Counsel has initiated claims process with the liability insurance for the corporate office burglary.

4. Business Decisions and Employee-related Issues

The Receiver's counsel and accountants discussed payroll and health insurance, the frozen status of all bank accounts, and the termination of the automatic customer contract renewals, and made preliminary determinations to benefit the estate. Counsel and KM identified additional financial accounts and credit cards to freeze or cancel. Further, counsel researched the legal obligations regarding insurance, workers compensation, and any required notice to employees regarding the Receivership, and other necessary legal assessments.

5. Asset recovery

Similarly, counsel contacted additional institutions to demand immediate turnover of any Receivership funds and facilitated the return of certain funds to the estate. Along with KM, counsel has been communicating with financial institutions regarding payroll issues and the proper return of estate monies. In addition, in order to assist in the rapid access to technology, counsel has contacted numerous service providers and sought immediate access for Andrews, the digital expert. Counsel has negotiated with vendors regarding certain invoices, and has strategized with

the accounting and digital experts regarding ongoing necessary services, ways to minimize service charges, and has assisted with termination of unnecessary services.

The Receiver continues to work with the forensic accountants at KM to identify additional funds that may be targeted to be returned to the estate via negotiation, litigation or other means.

6. Issues regarding employees

Counsel prepared a legal analysis of the Receiver's requirements under WARN Act, 29 U.S.C. § 2101, *et seq.*, and determined that the WARN Act did not apply to the actions of the Receiver. Counsel responded to various inquiries from Individual Defendants. Additionally, counsel prepared and responded to the Boost Defendants' letter terminating services to Vast Corporate Defendants and seeking indemnity. In order to respond to requests from the Government, counsel researched waiver issues and the scope of the Receiver's powers.

The Receiver's counsel and his accountants have worked together to assess the ability to pay healthcare insurance of employees for November and December. Further, counsel has worked with the accountants on the status of the ongoing financial analysis, and provided the issuance of additional letters or subpoenas as necessary in order to assist their findings.

7. Notices to customers and creditors

Counsel has provided notifications to Vast Corporate Defendants' customers via email, and has regularly updated the receivership website. Also, on a daily basis, the Receiver's counsel's agents have spent copious amount of time responded to inquiries from customers, vendors and employees, including three hundred telephone messages and one thousand emails, and providing information as necessary.

8. Communication with the Government

Moreover, the Receiver's counsel has maintained contact with the Government regarding the Receiver's activities and cooperated with the Government's requests to assist with their

investigation. The Receiver's counsel and accountants were present at the Boost Defendants' preliminary hearing, and consulted with the Government as needed. Further, the Government's forensic digital expert and the Receiver's counsel and digital expert have worked together to secure all electronic data and to facilitate production to the Individual Defendants.

9. Cooperation with the Individual Defendants

The Receiver's counsel has worked diligently to provide the Individual Defendants with access to documents and electronic data. Counsel has worked extensively with Defendant Loewenstern's counsel in order to identify the necessary electronic credentials and other information to access and secure the electronic data. Regarding information the Receiver has downloaded or procured information at this time, or any scanned hard documents, this information has been or will be produced to the only requesting Defendant, Elliot Loewenstern by Wednesday, December 17, 2014. Upon discovery of any additional electronic information, the Receiver will produce such information to Defendant Loewenstern promptly. Similarly, the Receiver's counsel has offered Defendant Loewenstern's counsel access to the corporate office in order to review any paper documents onsite, and the Receiver hopes to schedule this review shortly.⁶

V. REPORT ON THE RECEIVER'S INVESTIGATION

In addition to the efforts enumerated above regarding marshaling assets, the Receiver and his professionals have performed many services in connection with Vast Corporate Defendants, including, but not limited to:

- a. closing the related businesses and identifying customers, creditors, and investors;

⁶ The Receiver notes that Defendants Donahue and Vasta have not contacted the Receiver about access to Vast Corporate Defendants' information or documents. However, the Receiver has advised Defendant Loewenstern's counsel that he does not object to the sharing of any Vast Corporate Defendant information produced to Defendant Loewenstern with Defendants Donahue and Vasta.

- b. interviewing employees;
- c. obtaining and reviewing all financial records to trace fraudulent transfers and other asset diversions;
- d. investigating and attempting to reconstruct the Vast Corporate Defendants' financial and operational affairs, despite disorganized and incomplete records;
- e. analyzing potential claims to be pursued on behalf of the Receivership estate;
- f. communicating via email and telephone with customers and creditors of the Defendants;
- g. communicating and coordinating efforts with the Government;
- h. interviewing creditors of the Vast Corporate Defendants;
- i. locating and conducting an inventory of assets belonging to the Defendants;
- j. locating and consolidating Vast Corporate Defendants' banking accounts into interest bearing accounts under the Receiver's control;
- k. analyzing account receivables;
- l. reviewing legal authorities on property issues, securities issues, debt collection and Receivership issues;
- m. researching transfers of Receivership funds to various entities and individuals, and offshore accounts and activities;
- n. securing the Vast Corporate Defendants' computer network from outside access;
- o. imaging and preservation of all electronic data and information;
- p. gaining access to the Vast Corporate Defendants' websites and domains;
- q. changing all security passwords for computers, websites and electronic funds transfer software; and

- r. updating the Vast Corporate Defendants website to provide notice to consumers and creditors about the status of the Government's action against the Defendants.

VI. SUPPLEMENTAL REPORTS

The Receiver will file further reports at reasonable intervals, or as otherwise directed by the Court.

Dated: December 16, 2014

Respectfully submitted,

/s/ Nina Stillman Mandel

By: _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 16, 2014, a true and correct copy of the foregoing was filed by CM/ECF, and that a copy of the foregoing was sent by regular U.S. Mail to the following individuals:

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/s/ Nina Stillman Mandel
