

1 THOMAS W. MCNAMARA (SBN 127280)
2 Email: tmcnamara@labellamcnamara.com
3 401 West "A" Street, Suite 1150
4 San Diego, California 92101
5 Telephone: (619) 696-9200
6 Facsimile: (619) 696-9269

7 Temporary Receiver for Health Care One LLC,
8 Americans4Healthcare, Inc. and Elite Business Solutions, Inc.

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 FEDERAL TRADE COMMISSION,
12 Plaintiff,
13 v.

Case No.: SACV 10-1161 JVS(RNBx)

14 HEALTH CARE ONE LLC, an
15 Arizona limited liability company, also
16 d/b/a/ "HealthcareOne," "Americans4
17 Healthcare," "Citizens4Healthcare,"
18 "American Eagle Healthcare,"
19 "EasyLife Healthcare," "Elite
20 Healthcare," "Global Healthcare," and
21 "Republic Healthcare";

**STATUS REPORT OF
TEMPORARY RECEIVER**

**JUDGE: Honorable James V. Selna
DEPT : 10C**

22 AMERICANS4HEALTHCARE INC.,
23 a Delaware corporation;

**Hearing Date: Aug. 27, 2010
Hearing Time: 3:00 p.m.**

24 MICHAEL JAY ELLMAN, an
25 individual;

26 ELITE BUSINESS SOLUTIONS,
27 INC., a Nevada Corporation, also d/b/a/
28 "EasyLife Healthcare," "Elite
Healthcare" and "Republic Healthcare";

ROBERT DANIEL FREEMAN, an
individual;

Defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUS REPORT OF TEMPORARY RECEIVER

1. The American Mint, Ltd.

I can now update the Court on my investigation of The American Mint, Ltd. (“TAM”). In brief, Defendant Michael Ellman’s assertions that TAM is a separate company unrelated to Health Care One LLC. (“HCO”) are demonstrably false. TAM appears to be a shell company whose bank accounts Ellman has used as piggy banks for HCO funds. Because of the closely intertwined financial relationship between TAM and HCO, TAM is a Receivership Defendant.

A. Procedural Background

In his *Ex Parte* Application, filed August 9, 2010, Defendant Ellman requested the unfreezing of “certain unrelated accounts” – specifically TAM, Red Carpet Skincare, Quad Digital Corporation, AutoplanOne Inc. and Mangnum Financial.

As to TAM, Ellman submitted a Declaration, dated August 8, 2010, which unequivocally characterized TAM as totally separate from HCO and unrelated to health care or the claims of the FTC:

The American Mint, Ltd. (a completely separate company in the business of direct marketing for coins and collectibles, and consulting to other direct response marketing companies. It was established in 1999 at the request of a major oil company for credit card member marketing programs. This entity is not remotely related to health care or the disputed activities alleged in the FTC’s Complaint.)

Ellman Declaration, page 6, Paragraph 16, lines 6-12. (Similar claims were made at several points in the *Ex Parte* Application.)

On August 10, 2010, I filed “Receiver’s Statement Regarding Defendant Ellman’s Request to Unfreeze Funds.” I reported my conclusion that four of the companies which Ellman claimed were unrelated companies (Red Carpet Skincare, Quad Digital Corporation, AutoplanOne, Inc. and Magnum Financial) were, in fact, so intertwined with HCO that they qualified as Receivership

1 Defendants. As to TAM, I reported that we “cannot say at this point that this
2 company qualifies as a Receivership Defendant.” But, I included a clear qualifier
3 that “we are not in a position to definitively conclude that [TAM] does not possess
4 Receivership Defendants’ funds.”

5 During the hearing on August 11, 2010, counsel for HCO again presented
6 the argument that TAM was totally unrelated to HCO. I advised the Court I
7 would further investigate TAM and agreed to provide a report prior to the hearing
8 scheduled for August 27.

9 In their Opposition to Preliminary Injunction, filed August 20, 2010,
10 Defendants’ counsel re-submitted Ellman’s Declaration of August 8, 2010, and
11 again stridently argued in their Memorandum that the court “has frozen assets of
12 unrelated companies.” At page 21, the Memorandum includes a rather brazen
13 misstatement of the Receiver’s position by reciting that “even the Receiver
14 acknowledges that innocent company American Mint has been dragged into this
15 lawsuit and freeze order without any documentary evidence beyond
16 speculation...”

17 Since the August 11, 2010, hearing I have had an opportunity to further
18 investigate TAM. Unfortunately, neither Defendant Ellman or his former counsel
19 made any effort to assist me in the investigation, despite my requests. I did,
20 however, serve document subpoenas on the following: Scott Brooks, accountant
21 for Mr. Ellman’s various companies; Bank of America and Merrill Lynch, as to
22 accounts of Health Care One, HCO Marketing and TAM.

23 B. TAM Bank Accounts = Piggy Banks for HCO Marketing Funds

24 Based on this preliminary, and as yet incomplete, investigation, it is very
25 clear to me that TAM is directly related to, and completely intertwined with,
26 HCO. As I noted in my Preliminary Report, the HCO accounting was byzantine.
27 Senior executives at HCO did not have access to and visibility over bank accounts
28 to which Ellman directed large amounts of HCO related funds. It is now clear that

1 Ellman directed millions of dollars due to HCO to accounts in the name of HCO
2 Marketing and then ultimately to TAM bank accounts (as well as personal bank
3 accounts). Once the funds were in the TAM accounts, Ellman used them as he
4 saw fit – and he often saw fit to treat himself to all the luxuries life has to offer,
5 including in 2009 alone the purchase of a yacht, an Aston Martin, an expensive
6 home, and numerous other extravagances.

7 Ellman’s sworn statements that TAM “is not remotely related to health care
8 or the disputed activities alleged in the FTC’s Complaint” are directly belied by
9 materials we have now received and reviewed. Ellman’s sworn statements are so
10 materially false – as demonstrated by his own earlier statements and records
11 discussed below – as to render the statements perjurious.

12 It is particularly troubling that Ellman’s claims in his Declaration are
13 contrary to his own earlier representations we have now located.

- 14 • In a June 21, 2009 e-mail to his accountant, Mr. Brooks, Mr. Ellman
15 forwarded copies of HCO Marketing’s Bank of America statements for
16 one account. In describing transfers from the HCO Marketing to TAM
17 accounts Ellman represented as follows: “Any online B of A account
18 transfer to TAM/The American Mint, Ltd. is for ‘Marketing Consulting’
19 and is an expense.” (emphasis added). Exhibit 1.
- 20 • In an October 22, 2009, e-mail to Mr. Brooks, Mr. Ellman further
21 reported that “ I use the Tam designation for Hco payments to this corp
22 [The American Mint, Ltd] for consulting and cre[ative] development
23 similar to lmg [Loyalty Marketing Group – one of Ellman’s other
24 marketing companies].” Exhibit 2.
- 25 • Based on a Quick Books General Ledger report for HCO Marketing for
26 year 2009, produced to us by Mr. Brooks, we can identify multiple
27 transfers from HCO Marketing accounts to TAM’s accounts at Bank of
28 America. (Account Nos. ending 9387 and 5096). These transfers are all

1 categorized as “Marketing.” In order that the Court have a complete
2 sense for the frequency of these transfers and the convoluted nature of
3 Mr. Ellman’s cash management, in general, we attach the full General
4 Ledger Report with each transfer to TAM highlighted. Exhibit 3.

- 5 • We have also prepared a summary of the transfers from HCO
6 Marketing’s Bank of America account to TAM’s two accounts at Bank
7 of America – that summary shows \$745,209.00 transferred to TAM
8 Account No. 5096 and \$279,000 to TAM Account No. 9387, for a total
9 of \$1,024,000.00. In addition, almost \$150,000.00 was transferred to
10 Ellman’s personal accounts at Bank of America. Exhibit 4. These
11 figures are just for calendar year 2009.
- 12 • HCO Marketing appears to be the nearly exclusive source of funds into
13 TAM. We have seen no evidence of any revenues from any actual TAM
14 business operations. In fact, in 2009, the only source of funds, other
15 than HCO Marketing, was Ellman’s monthly Social Security check.
- 16 • Based on the Bank of America records produced to date, we can confirm
17 that after the HCO Marketing funds reached the TAM accounts, those
18 funds were primarily disbursed directly to Ellman or for the payment of
19 Ellman’s personal expenses. To illustrate, we attach Exhibits 5 and 6,
20 summaries of the activity in TAM’s 5096 account for the last two
21 months in 2009.
- 22 • Ellman’s wife, Geri Ellman, was also involved in management of
23 TAM’s accounts. Exhibit 7.

24 2. Additional Receivership Defendants

25 In the Receiver’s Statement Regarding Defendant Ellman’s Request to
26 Unfreeze Funds, dated August 10, 2010, I reported my conclusion that Red Carpet
27 Skincare, Quad Digital Corporation (Lapdance World.com), Autoplanone Inc. and
28 Magnum Financial Management, Inc. all qualified as Receivership Defendants.

1 As discussed above, TAM can now be added to that list. Based upon Ellman’s
2 statements to his accountant, I also believe that Loyalty Marketing Group
3 (“LMG”) should also be determined to be a Receivership Defendant. LMG
4 received HCO Marketing funds much like TAM. See e.g. Exhibit 8.

5 In addition, I have determined that Mile High Travel, Inc. and its principal,
6 Bryan Loving, are both affiliates of Defendant Elite Business Solutions, Inc., and
7 should also be included as Receivership Defendants. Mile High had a contractual
8 arrangement to split profits with Elite from the sales of healthcare discount
9 programs, and those profits were paid out by Elite to Loving personally.

10 The Stipulated Preliminary Injunction entered as to Defendant Elite
11 Business Solutions, Inc., has specifically identified Mile High as a Receivership
12 Defendant, but does not include Bryan Loving. I believe it is necessary to include
13 Mr. Loving personally as a Receivership Defendant, because he received
14 substantial funds directly, rather than through Mile High.

15 I will submit an Order for the Court’s review confirming the addition of
16 these Receivership Defendants following the hearing on August 27.

17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 25, 2010

/s/ Thomas W. McNamara
Thomas W. McNamara,
Court Appointed Temporary Receiver for
Health Care One LLC