

ORIGINAL

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13 FEDERAL TRADE COMMISSION

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 FEDERAL TRADE COMMISSION,
17 Plaintiff;

18 v.

19 HEALTH CARE ONE LLC, an Arizona
20 limited liability company, also d/b/a
21 "HealthcareOne," "Americans4
22 Healthcare," "Citizens4Healthcare,"
23 "American Eagle Healthcare,"
24 "EasyLife Healthcare," "Elite
25 Healthcare," "Global Healthcare," and
26 "Republic Healthcare";

27 AMERICANS4HEALTHCARE INC., a
28 Delaware corporation;

MICHAEL JAY ELLMAN, an
individual;

ELITE BUSINESS SOLUTIONS, INC.,
a Nevada corporation, also d/b/a
"EasyLife Healthcare," "Elite
Healthcare" and "Republic Healthcare";

ROBERT DANIEL FREEMAN, an
individual;

Defendants.

Case No. 10-1161 JVS(RNBx)

~~Proposed~~
TEMPORARY RESTRAINING
ORDER WITH ASSET FREEZE,
APPOINTMENT OF TEMPORARY
RECEIVER, IMMEDIATE ACCESS,
AND OTHER EQUITABLE RELIEF,
AND ORDER TO SHOW CAUSE
WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE
AND A PERMANENT RECEIVER
SHOULD NOT BE APPOINTED

FILED - SOUTHERN DIVISION
CLERK, U.S. DISTRICT COURT
AUG - 3 2010
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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LODGED

1 Plaintiff Federal Trade Commission having filed its Complaint for a
2 permanent injunction and other equitable relief in this matter pursuant to Sections
3 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b)
4 and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15
5 U.S.C. §§ 6101-6108, and having applied *ex parte* for a Temporary Restraining
6 Order pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the Court
7 having considered the Complaint, Plaintiff's application, and the memorandum of
8 points and authorities and other materials filed in support thereof, and now being
9 advised in the premises, finds as follows:

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

13 2. There is good cause to believe that Defendants Health Care One LLC,
14 also d/b/a "HealthcareOne," "Americans4 Healthcare," "Citizens4Healthcare,"
15 "American Eagle Healthcare," "EasyLife Healthcare," "Elite Healthcare," "Global
16 Healthcare," and "Republic Healthcare"; Americans4Healthcare Inc.; Michael Jay
17 Ellman; Elite Business Solutions, Inc., also d/b/a "EasyLife Healthcare," "Elite
18 Healthcare" and "Republic Healthcare"; and Robert Daniel Freeman ("Defendants")
19 have engaged in and are likely to engage in acts that violate Section 5(a) of the FTC
20 Act, 15 U.S.C. § 45(a), and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310,
21 and that the Commission is likely to prevail on the merits of this action.

22 3. There is good cause to believe that immediate and irreparable harm will
23 result from Defendants' ongoing violations of the FTC Act unless Defendants are
24 restrained and enjoined by Order of this Court.

25 4. Good cause exists for the appointment of a Temporary Receiver over
26 Corporate Defendants Health Care One LLC, also d/b/a "HealthcareOne,"
27 "Americans4 Healthcare," "Citizens4Healthcare," "American Eagle Healthcare,"
28 "EasyLife Healthcare," "Elite Healthcare," "Global Healthcare," and "Republic

1 Healthcare”; Americans4Healthcare Inc.; and Elite Business Solutions, Inc., also
2 d/b/a “EasyLife Healthcare,” “Elite Healthcare” and “Republic Healthcare.”

3 5. Considering Plaintiff’s likelihood of ultimate success and weighing the
4 equities, a Temporary Restraining Order (“Order”) with an asset freeze, the
5 appointment of a Temporary Receiver, immediate access, and other equitable relief is
6 in the public interest.

7 6. No security is required of any agency of the United States for issuance
8 of a restraining order. Fed. R. Civ. P. 65(c).

9
10 **ORDER**

11 **DEFINITIONS**

12 For purposes of this Order, the following definitions shall apply:

13 1. **“Plaintiff”** means the Federal Trade Commission.

14 2. **“Defendants”** means Defendants Health Care One LLC, also d/b/a
15 “HealthcareOne,” “Americans4 Healthcare,” “Citizens4Healthcare,” “American
16 Eagle Healthcare,” “EasyLife Healthcare,” “Elite Healthcare,” “Global Healthcare,”
17 and “Republic Healthcare”; Americans4Healthcare Inc.; Michael Jay Ellman; Elite
18 Business Solutions, Inc., also d/b/a “EasyLife Healthcare,” “Elite Healthcare” and
19 “Republic Healthcare”; and Robert Daniel Freeman, and each of them, by whatever
20 names each might be known by, as well as their successors and assigns, whether
21 acting directly or through any corporation, subsidiary, division, or other device,
22 including, but not limited to, fictitious business names.

23 3. **“Corporate Defendants”** refers to Defendants Health Care One LLC,
24 also d/b/a “HealthcareOne,” “Americans4 Healthcare,” “Citizens4Healthcare,”
25 “American Eagle Healthcare,” “EasyLife Healthcare,” “Elite Healthcare,” “Global
26 Healthcare,” and “Republic Healthcare”; Americans4Healthcare Inc.; and Elite
27 Business Solutions, Inc., also d/b/a “EasyLife Healthcare,” “Elite Healthcare” and
28 “Republic Healthcare.”

1 4. **“Individual Defendants”** refers to Defendants Michael Jay Ellman and
2 Robert Daniel Freeman.

3 5. **“Receivership Defendants”** refers to Defendants Health Care One
4 LLC, also d/b/a “HealthcareOne,” “Americans4 Healthcare,” “Citizens4Healthcare,”
5 “American Eagle Healthcare,” “EasyLife Healthcare,” “Elite Healthcare,” “Global
6 Healthcare,” and “Republic Healthcare”; Americans4Healthcare Inc.; and Elite
7 Business Solutions, Inc., also d/b/a “EasyLife Healthcare,” “Elite Healthcare” and
8 “Republic Healthcare,” as well as any successors, assigns, affiliates, and subsidiaries
9 that conduct any business related to the Defendants’ “national healthcare discount
10 program” and which the Temporary Receiver has reason to believe are owned or
11 controlled in whole or in part by any of the Defendants.

12 6. **“Assisting others”** means knowingly providing any of the following
13 goods or services to another person or entity:

- 14 a. performing customer service functions, including, but not limited
15 to, receiving or responding to consumer complaints; or
- 16 b. formulating or providing, or arranging for the formulation or
17 provision of, any telephone sales script or any other marketing
18 material; or
- 19 c. providing names of, or assisting in the generation of, potential
20 customers; or
- 21 d. performing marketing services of any kind.

22 7. **“Assets”** means any legal or equitable interest in, right to, or claim to,
23 any real or personal property, including, without limitation, chattels, goods,
24 instruments, equipment, fixtures, general intangibles, leaseholds, mail or other
25 deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares
26 of stock, and all cash, wherever located.

27 8. The term **“document”** is equal in scope and synonymous in meaning to
28 the terms “document” and “electronically stored information,” as described and used

1 in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs,
2 charts, photographs, audio and video recordings, computer records, and any other
3 data compilations from which information can be obtained. A draft or non-identical
4 copy is a separate document within the meaning of the term.

5 9. **“Material fact”** means any fact that is likely to affect a person’s choice
6 of, or conduct regarding, goods or services.

7 10. **“Person”** means a natural person, organization, or other legal entity,
8 including a corporation, partnership, proprietorship, association, cooperative, or any
9 other group or combination acting as an entity.

10 **I.**

11 **PROHIBITED REPRESENTATIONS**

12 **IT IS THEREFORE ORDERED** that Defendants and their successors,
13 assigns, officers, agents, servants, employees, and attorneys, and those persons or
14 entities in active concert or participation with any of them who receive actual notice
15 of this Order by personal service or otherwise, whether acting directly or through any
16 corporation, subsidiary, division, or other device, in connection with the advertising,
17 marketing, promotion, offering for sale or sale of any good or service, **are hereby**
18 **temporarily restrained and enjoined** from falsely representing, or from assisting
19 others who are falsely representing, any of the following:

- 20 A. The program that Defendants are selling or marketing is health
21 insurance;
- 22 B. The program that Defendants are selling or marketing is affiliated with
23 or endorsed or sponsored by the federal government;
- 24 C. Enrollment in the program that Defendants are selling or marketing will
25 result in substantial healthcare savings to the consumers;
- 26 D. Consumers who enroll in the program that Defendants are selling or
27 marketing will be able to obtain program benefits from the consumers’
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1 current healthcare providers and from other healthcare providers in the
2 consumers' local communities;

3 E. Defendants will provide a full refund, subject to no or only a nominal
4 processing fee to consumers who enroll in the program that Defendants
5 are selling or marketing, if the consumer submits a cancellation request
6 before the thirty-day trial period expires; and

7 F. Any other fact material to a consumer's decision to purchase any good
8 or service from Defendants.

9 **II.**

10 **PROHIBITION AGAINST VIOLATING**
11 **THE TELEMARKETING SALES RULE**

12 **IT IS FURTHER ORDERED** that Defendants and their successors, assigns,
13 officers, agents, servants, employees, and attorneys, and those persons or entities in
14 active concert or participation with any of them who receive actual notice of this
15 Order by personal service or otherwise, whether acting directly or through any
16 corporation, subsidiary, division, or other device, in connection with the
17 telemarketing of any good or service, are hereby temporarily restrained and enjoined
18 from violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310,
19 including, but not limited to:

20 A. Violating Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R.
21 § 310.3(a)(2)(iii), by misrepresenting, directly or by implication, material aspects of
22 the performance, efficacy, nature, or central characteristics of the program, including
23 that:

- 24 1. The program that Defendants are selling or marketing is health
25 insurance;
- 26 2. Enrollment in the program that Defendants are selling or
27 marketing will result in substantial healthcare savings to the
28 consumer;

1 C. Incurring charges or cash advances on any credit or debit card issued in
2 the name, singly or jointly, of any of the Defendants, or any corporation, partnership,
3 or other entity directly or indirectly owned or controlled by any of the Defendants;
4 and

5 D. Failing to disclose to Plaintiff, immediately upon service of this Order,
6 information that fully identifies each asset of the Defendants, and each entity holding
7 such asset, including, without limitation, the entity's name, address, and telephone
8 number, the number of the account, and the name under which the account is held.

9 *Provided*, that the freeze imposed in this Section shall be construed to not
10 apply to assets that the Individual Defendants acquire following service of this Order
11 if the Individual Defendant can prove that such assets are not derived from activity
12 prohibited by this Order.

13 IV.

14 FINANCIAL REPORTS

15 **IT IS FURTHER ORDERED** that within ~~forty-eight~~ ^{seventy-two (72)} hours after service of
16 this Order: *SOS*

17 A. Each of the Individual Defendants shall complete and deliver to Plaintiff
18 the Financial Statement form captioned "Financial Statement of Individual
19 Defendant," a copy of which is attached as Attachment 2 to the "Financial Statement
20 Forms for Section IV (Financial Reports) of the Temporary Restraining Order with
21 Asset Freeze, Appointment of Temporary Receiver, Immediate Access, and Other
22 Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should
23 Not Issue and a Permanent Receiver Should Not Be Appointed" filed in this action;

24 B. Each Individual Defendant shall prepare and deliver to Plaintiff and the
25 Temporary Receiver, for each of the Corporate Defendants, the Financial Statement
26 captioned "Financial Statement of Business Entity Defendant," a copy of which is
27 attached as Attachment 1 to the "Financial Statement Forms for Section IV
28 (Financial Reports) of the Temporary Restraining Order with Asset Freeze,

1 Appointment of Temporary Receiver, Immediate Access, and Other Equitable Relief,
2 and Order to Show Cause Why a Preliminary Injunction Should Not Issue and a
3 Permanent Receiver Should Not Be Appointed” filed in this action;

4 C. Each of the Individual Defendants shall, on behalf of each business
5 entity (whether a partnership, limited partnership, joint venture, sole proprietorship,
6 limited liability company, corporation, or otherwise) of which he is the majority
7 owner or otherwise controls, other than the Corporate Defendants, complete and
8 deliver to Plaintiff a separate copy of the “Financial Statement of Business Entity
9 Defendant”; and

10 D. Defendants shall provide access to records and documents pertaining to
11 assets of any of the Defendants that are held by financial institutions outside the
12 territory of the United States by signing a Consent to Release of Financial Records if
13 requested by Plaintiff or the Temporary Receiver.

14 V.

15 **PRESERVATION OF RECORDS**

16 **IT IS FURTHER ORDERED** that Defendants, and their agents, servants,
17 employees, and attorneys, and all persons or entities directly or indirectly under the
18 control of any of them, and all other persons or entities in active concert or
19 participation with any of them who receive actual notice of this Order by personal
20 service or otherwise, and each such person, are hereby temporarily
21 restrained and enjoined from destroying, erasing, mutilating, concealing, altering,
22 transferring or otherwise disposing of, in any manner, directly or indirectly, any
23 documents that relate to the business practices or finances of any of the Defendants,
24 including, but not limited to, such documents as any contracts, accounting data,
25 correspondence, advertisements, computer tapes, discs or other computerized
26 records, books, written or printed records, handwritten notes, telephone logs,
27 telephone scripts, receipt books, ledgers, personal and business canceled checks and
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1 check registers, bank statements, appointment books, copies of federal, state, or local
2 business or personal income or property tax returns.

3 This Section specifically applies to all documents displayed on or accessible
4 from any and all Internet websites owned or controlled by any Defendant, including
5 but not limited to any of the websites with the following domain names:

6 www.healthcareone.com, www.americans4healthcare.com, www.a4hrx.com,
7 www.citizens4healthcare.com, www.elitehealthcareinc.com,
8 www.republichealthcare.com, www.easylifehealthcare.com,
9 www.americaneaglehealthcare.com, and www.myglobalhealthonline.com.

10 **VI.**

11 **RECORD KEEPING**

12 **IT IS FURTHER ORDERED** that each of the Individual Defendants is
13 hereby temporarily restrained and enjoined from failing to make and keep, and to
14 provide to Plaintiff's counsel promptly upon request, an accurate accounting that, in
15 reasonable detail, accurately, fairly, and completely reflects his income (including all
16 income resulting from any services, activity, or efforts rendered by the Individual
17 Defendant), disbursements, transactions, and use of money, beginning immediately
18 upon service or actual notice of this Order, and continuing daily until otherwise
19 ordered by the Court.

20 **VII.**

21 **NOTIFICATION OF BUSINESS ACTIVITIES**

22 **IT IS FURTHER ORDERED** that

23 A. Each of the Individual Defendants is hereby temporarily restrained and
24 enjoined from directly or indirectly creating, operating, or exercising any control
25 over any business entity, including any partnership, limited partnership, joint
26 venture, sole proprietorship, limited liability company, or corporation, without first
27 serving on counsel for the Commission a written statement disclosing the following:
28 (1) the name of the business entity; (2) the address and telephone number of the

1 business entity; (3) the names of the business entity's officers, directors, principals,
2 managers and employees; and (4) a detailed description of the business entity's
3 intended activities.

4 B. Each of the Individual Defendants shall notify the Commission at least
5 seven (7) days prior to affiliating with, becoming employed by, or performing any
6 work for any business that is not a named Defendant in this action. Each notice shall
7 include the Defendant's new business address and a statement of the nature of the
8 business or employment and the nature of his duties and responsibilities in
9 connection with that business or employment.

10 **VIII.**

11 **FINANCIAL INSTITUTIONS**

12 **IT IS FURTHER ORDERED** that any financial or brokerage institution, any
13 business entity, or any other person having possession, custody, or control of any
14 records of any of the Defendants, or of any account, safe deposit box, or other asset
15 titled in the name of any of the Defendants, either individually or jointly or held for
16 the benefit of any of the Defendants, or which has maintained any such account, safe
17 deposit box, or other asset at any time since March 1, 2006, who is served with a
18 copy of this Order, or who otherwise has actual knowledge of this Order, shall:

19 A. Hold and retain within its control and prohibit the transfer,
20 encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale, or other
21 disposal of any such account or other asset, except for transfers or withdrawals
22 authorized in writing by counsel for Plaintiff, by the Temporary Receiver (with
23 respect to assets of any of the Receivership Defendants), or by further order of this
24 Court;

25 B. Deny access to any safe deposit box titled individually or jointly in the
26 name of, or otherwise subject to access by, any of the Defendants;

27 C. Provide to Plaintiff and to the Temporary Receiver, within three (3)
28 business days of notice of this Order, a sworn statement setting forth:

1 extent they are in possession of documents relevant to this action, shall provide
2 Plaintiff with the means necessary to access these documents, including without
3 limitation keys and combinations to locks, computer access codes, and storage area
4 access information; and

5 B. The Temporary Receiver shall subsequently allow the Commission's
6 representatives, the representatives of the Defendants, and each of the Individual
7 Defendants reasonable access to the business premises of the Receivership
8 Defendants. The purpose of this access shall be to inspect and copy any and all
9 books, records, accounts, and other property owned by or in the possession of the
10 Receivership Defendants. The Temporary Receiver shall have the discretion to
11 determine the time and manner of this access; and

12 C. If, at the time of service of this Order, any records or property relating
13 to Defendants' business or assets are located in the personal residence of any of the
14 Individual Defendants or in any other non-business location in their personal control,
15 then he shall, within ~~forty-eight (48)~~ ^{seventy-two (72)} ~~hours~~ ¹⁰⁵ of service of this Order, produce to
16 Plaintiff, at a location designated by Plaintiff, the following:

17 1. All contracts, accounting data, written or electronic
18 correspondence, advertisements, computer tapes, discs, or other computerized or
19 electronic records, books, written or printed records, handwritten notes, telephone
20 logs, telephone scripts, telephone bills, receipt books, ledgers, membership records
21 and lists, refund records, receipts, ledgers, bank records (including personal and
22 business monthly statements, canceled checks, records of wire transfers, and check
23 registers), appointment books, copies of federal, state, and local business or personal
24 income or property tax returns, 1099 forms, title records, and other documents or
25 records of any kind that relate to Defendants' business and assets; and

26 2. All computers and data in whatever form, used by Defendants, in
27 whole or in part, relating to Defendants' business and assets.

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XI.

APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Thomas W. McHamara

JWS

is appointed Temporary Receiver for Defendants Health Care One LLC, also d/b/a "HealthcareOne," "Americans4 Healthcare," "Citizens4Healthcare," "American Eagle Healthcare," "EasyLife Healthcare," "Elite Healthcare," "Global Healthcare," and "Republic Healthcare"; Americans4Healthcare Inc.; and Elite Business Solutions, Inc., also d/b/a "EasyLife Healthcare," "Elite Healthcare" and "Republic Healthcare," as well as for any successors, assigns, affiliates, and subsidiaries that conduct any business related to the Defendants' national healthcare discount program and which the Temporary Receiver has reason to believe are owned or controlled in whole or in part by any of the Defendants (the "Receivership Defendants"), with the full power of an equity receiver. The Temporary Receiver shall be the agent of this Court and solely the agent of this Court in acting as Receiver under this Order. The Temporary Receiver shall be accountable directly to this Court. The Temporary Receiver shall comply with all Local Rules of this Court governing receivers.

XII.

RECEIVERSHIP DUTIES

IT IS FURTHER ORDERED that the Temporary Receiver is directed and authorized to perform and accomplish the following:

A. Assume full control of the Receivership Defendants by removing, as the Receiver deems necessary or advisable, any manager, independent contractor, employee, or agent of the Receivership Defendants, including the Individual Defendants, from control of, management of, or participation in, the affairs of the Receivership Defendants;

B. Take exclusive custody, control and possession of all assets and documents of, or in the possession, custody, or under the control of, the Receivership

1 Defendants, wherever situated. The Temporary Receiver shall have full power to
2 divert mail and to sue for, collect, receive, take in possession, hold, and manage all
3 assets and documents of the Receivership Defendants and other persons or entities
4 whose interests are now held by or under the direction, possession, custody, or
5 control of the Receivership Defendants;

6 C. Take all steps necessary to secure all premises owned, rented, leased, or
7 otherwise controlled by the Receivership Defendants, including but not limited to all
8 such premises located at:

9 3220 S. Fair Lane, Suite 12, Tempe, AZ 85282

10 17595 Harvard Ave., Suite C2450, Irvine, CA 92614

11 Such steps may include, but are not limited to, the following, as the Temporary
12 Receiver deems necessary or advisable: (1) serving and filing this Order;
13 (2) completing a written inventory of all receivership assets; (3) obtaining pertinent
14 information from all employees and other agents of the Receivership Defendants,
15 including, but not limited to, the name, home address, social security number, job
16 description, method of compensation, and all accrued and unpaid commissions and
17 compensation of each such employee or agent; (4) photographing and video taping
18 all portions of the location; (5) securing the location by changing the locks and
19 disconnecting any computer modems or other means of access to the computer or
20 other records maintained at that location; or (6) requiring any persons present on the
21 premises at the time this Order is served to leave the premises, to provide the
22 Temporary Receiver with proof of identification, or to demonstrate to the satisfaction
23 of the Temporary Receiver that such persons are not removing from the premises
24 documents or assets of the Receivership Defendants. Law enforcement officers may
25 assist the Temporary Receiver in implementing these provisions to keep the peace
26 and maintain security;

27 D. Continue to conduct the business, or cease operation of the business, of
28 the Receivership Defendants in such manner, to such extent, and for such duration as

1 the Temporary Receiver may in good faith deem to be necessary or appropriate to
2 operate the businesses profitably and lawfully.

3 E. Conserve, hold, and manage all receivership assets, and perform all acts
4 necessary or advisable to preserve the value of those assets, in order to prevent any
5 irreparable loss, damage, or injury to consumers or to creditors of the Receivership
6 Defendants, including, but not limited to, obtaining an accounting of the assets and
7 preventing transfer, withdrawal, or misapplication of assets;

8 F. Enter into contracts and purchase insurance as advisable or necessary;

9 G. Prevent the inequitable distribution of assets and to determine, adjust,
10 and protect the interests of consumers and creditors who have transacted business
11 with the Receivership Defendants;

12 H. Manage and administer the business of the Receivership Defendants
13 until further order of this Court by performing all incidental acts that the Temporary
14 Receiver deems to be advisable or necessary, which includes retaining, hiring, or
15 dismissing any employees, independent contractors, or agents;

16 I. Choose, engage, and employ attorneys, accountants, appraisers, and
17 other independent contractors and technical specialists, as the Temporary Receiver
18 deems advisable or necessary in the performance of duties and responsibilities under
19 the authority granted by this Order;

20 J. Make payments and disbursements from the receivership estate that are
21 necessary or advisable for carrying out the directions of, or exercising the authority
22 granted by, this Order. The Temporary Receiver shall apply to the Court for prior
23 approval of any payment of any debt or obligation incurred by the Receivership
24 Defendants prior to the date of entry of this Order, except payments that the
25 Temporary Receiver deems necessary or advisable to secure assets of the
26 Receivership Defendants, such as rental payments;

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1 K. Determine and implement the manner in which the Receivership
2 Defendants will comply with, and prevent violations of, this Order and all other
3 applicable laws;

4 L. Institute, compromise, adjust, appear in, intervene in, or become party
5 to such actions or proceedings in state, federal or foreign courts that the Temporary
6 Receiver deems necessary and advisable to preserve or recover the assets of the
7 Receivership Defendants or that the Temporary Receiver deems necessary and
8 advisable to carry out the Temporary Receiver's mandate under this Order;

9 M. Defend, compromise, adjust, or otherwise dispose of any or all actions
10 or proceedings instituted in the past or in the future against the Temporary Receiver
11 in his role as Temporary Receiver, or against the Receivership Defendants that the
12 Temporary Receiver deems necessary and advisable to preserve the assets of the
13 Receivership Defendants or that the Temporary Receiver deems necessary and
14 advisable to carry out the Temporary Receiver's mandate under this Order;

15 N. Issue subpoenas to obtain documents and records pertaining to the
16 receivership, and conduct discovery in this action on behalf of the receivership
17 estate;

18 O. Open one or more bank accounts as designated depositories for funds of
19 the Receivership Defendants. The Temporary Receiver shall deposit all funds of the
20 Receivership Defendants in such a designated account and shall make all payments
21 and disbursements from the receivership estate from such an account; and

22 P. Maintain accurate records of all receipts and expenditures that s/he
23 makes as Temporary Receiver.

24 Q. Cooperate with reasonable requests for information or assistance from
25 any state or federal law enforcement agency.
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1 **XIII.**

2 **COOPERATION WITH THE TEMPORARY RECEIVER**

3 **IT IS FURTHER ORDERED** that Defendants, and their agents, servants,
4 employees, and attorneys, and all persons or entities directly or indirectly under the
5 control of any of them, and all other persons or entities in active concert or
6 participation with any of them who receive actual notice of this Order by personal
7 service or otherwise, and each such person, shall fully cooperate with and assist the
8 Temporary Receiver. Such cooperation and assistance shall include, but not be
9 limited to, providing any information to the Temporary Receiver that the Temporary
10 Receiver deems necessary to exercising the authority and discharging the
11 responsibilities of the Temporary Receiver under this Order; providing any password
12 required to access any computer or electronic files in any medium; or advising all
13 persons who owe money to the Receivership Defendants that all debts should be paid
14 directly to the Temporary Receiver. Defendants are hereby temporarily restrained
15 and enjoined from directly or indirectly:

16 A. Transacting any of the business of the Receivership Defendants, or
17 transacting business under the name Health Care One, Americans4 Healthcare,
18 Citizens4Healthcare, American Eagle Healthcare, EasyLife Healthcare, Elite
19 Healthcare, Global Healthcare, and Republic Healthcare, or any substantially similar
20 name;

21 B. Destroying, secreting, defacing, transferring, or otherwise altering or
22 disposing of any documents of the Receivership Defendants, including, but not
23 limited to, books, records, accounts, or any other papers of any kind or nature;

24 C. Transferring, receiving, altering, selling, encumbering, pledging,
25 assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in
26 the possession or custody of, or in which an interest is held or claimed by, the
27 Receivership Defendants, or the Temporary Receiver;

28 D. Excusing debts owed to the Receivership Defendants;

1 E. Failing to notify the Temporary Receiver of any asset, including
2 accounts, of any Receivership Defendant held in any name other than the name of
3 any Receivership Defendant, or by any person or entity other than the Receivership
4 Defendants, or failing to provide any assistance or information requested by the
5 Temporary Receiver in connection with obtaining possession, custody, or control of
6 such assets; or

7 F. Doing any act or refraining from any act whatsoever to interfere with
8 the Temporary Receiver's taking custody, control, possession, or managing of the
9 assets or documents subject to this receivership; or to harass or interfere with the
10 Temporary Receiver in any way; or to interfere in any manner with the exclusive
11 jurisdiction of this Court over the assets or documents of the Receivership
12 Defendants; or to refuse to cooperate with the Temporary Receiver or the Temporary
13 Receiver's duly authorized agents in the exercise of their duties or authority under
14 any Order of this Court.

15 **XIV.**

16 **DELIVERY OF RECEIVERSHIP PROPERTY**

17 **IT IS FURTHER ORDERED** that:

18 A. Immediately upon service of this Order upon them, or within a period
19 permitted by the Temporary Receiver, Defendants and all other persons in
20 possession, custody, and control of assets or documents of the Receivership
21 Defendants shall transfer or deliver possession, custody, and control of the following
22 to the Temporary Receiver:

- 23 1. All assets of the Receivership Defendants;
- 24 2. All documents of the Receivership Defendants, including, but not
25 limited to, books and records of accounts, all financial and
26 accounting records, balance sheets, income statements, bank
27 records (including monthly statements, canceled checks, records
28

1 of wire transfers, and check registers), client lists, title documents
2 and other papers;

3 3. All assets belonging to members of the public now held by the
4 Receivership Defendants; and

5 4. All keys and codes necessary to gain or to secure access to any
6 assets or documents of the Receivership Defendants, including,
7 but not limited to, access to their business premises, means of
8 communication, accounts, computer systems, or other property.

9 B. In the event any person or entity fails to deliver or transfer any asset or
10 otherwise fails to comply with any provision of this Section, the Temporary Receiver
11 may file, on an *ex parte* basis, an Affidavit of Non-Compliance regarding the failure.
12 Upon filing of the affidavit, the Court may authorize, without additional process or
13 demand, Writs of Possession or Sequestration or other equitable writs requested by
14 the Temporary Receiver. The writs shall authorize and direct the United States
15 Marshal or any sheriff or deputy sheriff of any county to seize the asset, document,
16 or other thing and to deliver it to the Temporary Receiver.

17 **XV.**

18 **BANKRUPTCY PETITIONS**

19 **IT IS FURTHER ORDERED** that, in light of the asset freeze and
20 appointment of the Temporary Receiver, Defendants are hereby prohibited from
21 filing, or causing to be filed, on behalf of any of the Receivership Defendants, a
22 petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*,
23 without prior permission from this Court.

24 **XVI.**

25 **TRANSFER OF FUNDS TO THE TEMPORARY RECEIVER**

26 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order, all
27 banks, broker-dealers, savings and loans, escrow agents, title companies, commodity
28 trading companies, or other financial institutions shall cooperate with all reasonable

1 requests of the Temporary Receiver relating to implementation of this Order,
2 including transferring funds at his or her direction and producing records related to
3 the assets of the Receivership Defendants.

4 **XVII.**

5 **STAY OF ACTIONS**

6 **IT IS FURTHER ORDERED** that:

7 A. Except by leave of this Court, during pendency of the receivership
8 ordered herein, Defendants and all other persons and entities (except for Plaintiff) are
9 hereby stayed from taking any action to establish or enforce any claim, right, or
10 interest for, against, on behalf of, in, or in the name of: a) any of the Corporate
11 Defendants, or b) any of their assets, or c) the Temporary Receiver or the Temporary
12 Receiver's duly authorized agents acting in their capacities as such, including, but
13 not limited to, the following actions:

14 1. Commencing, prosecuting, continuing, entering, or enforcing any
15 suit or proceeding, except that such actions may be filed to toll any applicable statute
16 of limitations;

17 2. Accelerating the due date of any obligation or claimed obligation;
18 filing or enforcing any lien; taking or attempting to take possession, custody, or
19 control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in
20 any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or
21 otherwise;

22 3. Executing, issuing, serving, or causing the execution, issuance or
23 service of, any legal process, including, but not limited to, attachments,
24 garnishments, subpoenas, writs of replevin, writs of execution, or any other form of
25 process whether specified in this Order or not; or

26 4. Doing any act or thing whatsoever to interfere with the
27 Temporary Receiver taking custody, control, possession, or management of the
28 assets or documents subject to this receivership, or to harass or interfere with the

1 Temporary Receiver in any way, or to interfere in any manner with the exclusive
2 jurisdiction of this Court over the assets or documents of the Receivership
3 Defendants.

4 B. This paragraph does not stay:

5 1. The commencement or continuation of a criminal action or
6 proceeding;

7 2. The commencement or continuation of an action or proceeding by
8 a governmental unit to enforce such governmental unit's police or regulatory power;

9 3. The enforcement of a judgment, other than a money judgment,
10 obtained in an action or proceeding by a governmental unit to enforce such
11 governmental unit's police or regulatory power;

12 4. The commencement of any action by the Secretary of the United
13 States Department of Housing and Urban Development to foreclose a mortgage or
14 deed of trust in any case in which the mortgage or deed of trust held by the Secretary
15 is insured or was formerly insured under the National Housing Act and covers
16 property, or combinations of property, consisting of five or more living units; or

17 5. The issuance to a Receivership Defendants of a notice of tax
18 deficiency.

19 C. Except as otherwise provided in this Order, all persons and entities in
20 need of documentation from the Temporary Receiver shall in all instances first
21 attempt to secure such information by submitting a formal written request to the
22 Temporary Receiver, and, if such request has not been responded to within ^{seventy-two hours} ~~thirty~~
23 ~~(30) days~~ of receipt by the Temporary Receiver, any such person or entity may
24 thereafter seek an Order of this Court with regard to the relief requested.

25 XVIII.

26 COMPENSATION OF TEMPORARY RECEIVER

27 IT IS FURTHER ORDERED that the Temporary Receiver and all personnel
28 hired by the Temporary Receiver as herein authorized, including counsel to the

1 Temporary Receiver and accountants, are entitled to reasonable compensation for the
2 performance of duties pursuant to this Order and for the cost of actual out-of-pocket
3 expenses incurred by them, from the assets now held by or in the possession or
4 control of or which may be received by the Receivership Defendants. The
5 Temporary Receiver shall file with the Court and serve on the parties periodic
6 requests for the payment of such reasonable compensation, with the first such request
7 filed no more than sixty days after the date of this Order. The Temporary Receiver
8 shall not increase the hourly rates used as the bases for such fee applications without
9 prior approval of the Court.

10 **XIX.**

11 **RECEIVER'S BOND**

12 **IT IS FURTHER ORDERED** that the Temporary Receiver shall file with the
13 Clerk of this Court a bond in the sum of \$50,000 *Sub*, with sureties to be
14 approved by the Court, conditioned that the Temporary Receiver will well and truly
15 perform the duties of the office and abide by and perform all acts the Court directs.

16 **XX.**

17 **DISTRIBUTION OF ORDER**

18 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a
19 copy of this Order to each of the Corporate Defendants' affiliates, franchises,
20 subsidiaries, divisions, successors, assigns, directors, officers, managing agents,
21 employees, representatives, and independent contractors and shall, within three (3)
22 business days from the date of service of this Order, serve on Plaintiff affidavits
23 identifying the names, titles, addresses, and telephone numbers of the persons and
24 entities whom they have served pursuant to this provision. The Temporary Receiver
25 has no obligation under this provision.

1 **XXI.**

2 **CREDIT REPORTS**

3 **IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports
4 concerning any of the Defendants pursuant to Section 604(a)(1) of the Fair Credit
5 Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit
6 reporting agency from which such reports are requested shall provide them to
7 Plaintiff.

8 **XXII.**

9 **LIMITED EXPEDITED DISCOVERY**

10 **IT IS FURTHER ORDERED** that the Commission is granted leave at any
11 time after service of this Order to:

12 A. Take the deposition of any person or entity, without limitation, for the
13 purpose of:

- 14 1. discovering the nature, location, status, and extent of assets of any
15 of the Defendants, including Receivership Defendants, or of their
16 affiliates or of their subsidiaries,
17 2. discovering the nature, location, status and extent of documents
18 reflecting the business transactions of any of the Defendants;
19 3. discovering the nature and extent of Defendants' business
20 activities, and

21 B. Demand the production of documents from any person or entity relating
22 to the nature, status, location and extent of any of the Defendants' assets, and the
23 location of any documents reflecting the Defendants' business transactions or the
24 nature and extent of Defendants' ⁽⁴⁸⁾ business operations.

25 ~~Thirty-six (36)~~ hours notice shall be deemed sufficient for any such deposition
26 and ~~forty-eight (48)~~ hours notice shall be deemed sufficient for the production of any
27 such documents. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)
28 and 31(a)(2) shall not apply to depositions taken pursuant to this Section. Any such

Security, Inc (72) JVS

1 depositions taken pursuant to this Section shall not be counted toward the ten
2 deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A). Service of
3 discovery taken pursuant to this Section shall be sufficient if made by facsimile or by
4 overnight delivery.

5 **XXIII.**

6 **CORRESPONDENCE**

7 **IT IS FURTHER ORDERED** that, for the purposes of this Order, all
8 correspondence and service of pleadings on Plaintiff shall be addressed to:

9 Faye Chen Barnouw, Maricela Segura, Barbara Y.K. Chun,
10 and John D. Jacobs
11 Federal Trade Commission
12 10877 Wilshire Blvd., Suite 700
13 Los Angeles, CA 90024
14 Fax: (310) 824-4380
15 E-mail: fbarnouw@ftc.gov, msegura@ftc.gov, bchun@ftc.gov,
16 and jjacobs@ftc.gov

17 **XXIV.**

18 **PRELIMINARY INJUNCTION HEARING**

19 **IT IS FURTHER ORDERED** that Defendants Health Care One LLC, also
20 d/b/a "HealthcareOne," "Americans4 Healthcare," "Citizens4Healthcare,"
21 "American Eagle Healthcare," "EasyLife Healthcare," "Elite Healthcare," "Global
22 Healthcare," and "Republic Healthcare"; Americans4Healthcare Inc.; Michael Jay
23 Ellman; Elite Business Solutions, Inc., also d/b/a "EasyLife Healthcare," "Elite
24 Healthcare" and "Republic Healthcare"; and Robert Daniel Freeman shall appear
25 before this Court, located at 411 W. 4th St., Santa Ana, CA 92701,
Court Room 10C,
26 on the 13th day of August, 2010, at 2 pm o'clock
27 ~~am~~/p.m., to show cause, if any there be, why this Court should not enter a
28 preliminary injunction, pending final ruling on the Complaint, against said
Defendants enjoining them from violations of Section 5(a) of the FTC Act, 15 U.S.C.
§ 45(a), and the Telemarketing Sales Rule, 16 C.F.R. Part 310, imposing such

1 additional relief as may be appropriate, and appointing a permanent receiver over
2 Defendants Health Care One LLC, also d/b/a "HealthcareOne," "Americans4
3 Healthcare," "Citizens4Healthcare," "American Eagle Healthcare," "EasyLife
4 Healthcare," "Elite Healthcare," "Global Healthcare," and "Republic Healthcare";
5 Americans4Healthcare Inc.; and Elite Business Solutions, Inc., also d/b/a "EasyLife
6 Healthcare," "Elite Healthcare" and "Republic Healthcare."

7 **IT IS FURTHER ORDERED** that, in support of its application for a
8 preliminary injunction, Plaintiff may submit supplemental evidence discovered
9 subsequent to the filing of its application for a TRO, as well as a supplemental
10 memorandum. Plaintiff shall file and serve any supplemental evidence and
11 memorandum by no later than ~~4:30 p.m. on the sixth court day prior to the~~
noon August 11, 2010. MS
12 ~~preliminary injunction hearing as scheduled above.~~ Such documents may be served
13 on each Defendant by e-mailing, faxing or delivering the document(s) to the attorney
14 for the Defendant, or, if the Defendant is not represented by counsel, to a fax number
15 or email address previously designated by the Defendant in writing to counsel for
16 Plaintiff; if the Defendant has not so designated a fax number or email address,
17 service may be effected by mailing the documents to an address designated in
18 writing by the Defendant to counsel for Plaintiff; if no address has been so
19 designated, service shall be complete upon filing of the documents with this Court.

20 **IT IS FURTHER ORDERED** that Defendants shall file and serve any
21 opposition to the issuance of a preliminary injunction and the appointment of a
22 permanent receiver over the Receivership Defendants, including any declarations,
23 exhibits, memoranda or other evidence on which they intend to rely, and objections
24 to any evidence submitted by Plaintiff, by no later than ~~4:30 p.m. of the fourth court~~
noon August 9, 2010, MS
25 ~~day prior to the hearing on the preliminary injunction.~~ Such documents may be
26 served by e-mail or fax upon Plaintiff's counsel.

1 ~~IT IS FURTHER ORDERED~~ that Plaintiff shall file and serve any reply to
2 ~~Defendants' opposition by no later than the second court day prior to the preliminary~~
3 ~~injunction hearing.~~ JUS

4 **IT IS FURTHER ORDERED** that there will be no direct examination of
5 witnesses at the preliminary injunction hearing in this matter. Direct testimony shall
6 be presented in the form of declarations or affidavits.

7 **XXV.**

8 **EXPIRATION**

9 **IT IS FURTHER ORDERED** that this Order shall expire as to each
10 Defendant ten (10) court days after entry unless, within such time, for good cause
11 shown, it is extended for a like period, or unless the Defendant consents that it may
12 be extended for a longer period and the reasons therefor are entered of record.

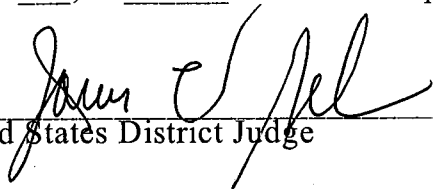
13 **XXVI.**

14 **SERVICE OF THIS ORDER**

15 **IT IS FURTHER ORDERED** that copies of this Order may be served by any
16 means, including facsimile transmission, upon any financial institution or other
17 entity or person that may have possession, custody, or control of any documents or
18 assets of any Defendant, or that may be subject to any provision of this Order.

19
20 **SO ORDERED:**

21
22 Dated this 3d day of August, 20 10, at 2:55 pm o'clock a.m./p.m.

23
24 
25 United States District Judge

26 **JAMES V. SELNA**