

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
13 CVS 7849

AMERICANA DEVELOPMENT, INC.,)
Plaintiff)
v.)
EBIUS TRADING & DISTRIBUTING)
COMPANY f/k/a EASTERN BIKES, INC. and)
VEIN INCORPORATED,)
Defendants)
v.)
KENLIGHT TRADING CO., LTD;)
KENSTONE METAL CORPORATION;)
GREENTECH HOLDING CORPORATION)
and BICITECH HOLDING CORPORATION,)
Counterclaim Defendants)

**PRELIMINARY INJUNCTION
AND ORDER APPOINTING RECEIVER**

THIS MATTER came before the undersigned on September 5, 2014, for hearing on Plaintiff's Motion for Temporary Injunctive Relief ("Motion") pursuant to Rule 65 of the North Carolina Rules of Civil Procedure ("Rule(s)"), N.C. Gen. Stat. § 1-502, N.C. Gen. Stat. § 1-507.1 (hereinafter, references to the North Carolina General Statutes will be to "G.S.") and the court's inherent equitable power, and

THE COURT, having heard arguments of counsel for Plaintiff and having considered appropriate matters of record, including the Affidavit of Jeffrey Pizzola (dated August 18, 2014), the Second Affidavit of Jeffrey Pizzola (dated September 2, 2014), and the affidavit of Lonnie Wells, FINDS and CONCLUDES, only for the limited purpose of determining the Motion, as follows:

FINDINGS OF FACT

1. Defendant Ebius Trading & Distributing Company f/k/a Eastern Bikes, Inc., ("Ebius") and Defendant Vein Incorporated ("Vein") (collectively, "Defendants") have been in the business of selling BMX bicycles and components.

2. Defendants have been in this business for at least eighteen years. During that time, Defendants have built up considerable value in its Eastern brand and associated trademarks and other intellectual property. The Eastern brand is a prominent brand in the BMX bicycle industry. At one point, Eastern brand BMX bicycles were for sale on every continent except Africa and Antarctica.

3. Defendants have recently received offers for the purchase of their business, including the Eastern brand. As of the date of the hearing, these offers show that the Eastern brand likely is worth hundreds of thousands of dollars.

4. Defendants owe Plaintiff for specific unpaid invoices totaling approximately \$1,900,000, plus interest (the "Debt") for the manufacture of BMX bicycles and components. The bicycles and components were manufactured by Kenlight Trading Co., LTD, Kenstone Metal Corporation, Greentech Holding Corporation, and Bicitech Holding Corporation (collectively, the "K-Group"), a group of related companies located in Asia. The K-Group assigned the Debt to Plaintiff for ease of collection. These invoices are the subject of this action.

5. In addition to the debt owed to Plaintiff, Defendants, together with J.M. Deeds, Inc. ("J.M. Deeds", and collectively with Defendants, the "Eastern Parties"), parent company of Defendant Ebius, owe approximately \$500,000 to various other creditors and

have recorded losses varying from approximately \$100,000 to \$500,000 in 2010, 2011, 2012, and 2013.

6. J.M. Deeds, by its principals and officers, Jon Byers (“Byers”) and Michael Corley (“Corley”), have a \$200,000 line of credit with Wells Fargo Bank, N.A. (“Wells Fargo”). In addition to being secured by all personal property owned by J.M. Deeds, the Wells Fargo debt is personally guaranteed by Byers and Corley.

7. The Eastern Parties do not have sufficient cash to pay for the manufacture of bicycles and components. Further, the Eastern Parties have been unable to obtain sufficient credit to enable them to recommence business operations. Because the Eastern Parties cannot pay for the further manufacture of bicycles and components, they have incurred \$500,000.00 in backordered products from the Eastern Parties’ customers that the Eastern Parties cannot fill.

8. Byers, on behalf of Defendants, previously negotiated with Plaintiff with regard to a payment plan for the Debt owed to Plaintiff. Byers sent an e-mail to Jeffrey Pizzola, Plaintiff’s CFO, on August 14, 2014, terminating these negotiations and stating that Defendants are starting the process of liquidating the assets and winding up their business activities.

9. In the August 14 e-mail, Byers made it clear that he and Corley were attempting to sell certain intellectual property owned by Defendants to pay in full J.M. Deeds’ debt to Wells Fargo and thereby fully satisfy their personal guarantees. Byers and Corley planned to sell Defendants’ intellectual property to pay the debt to Wells Fargo, even though the owners of the intellectual property, Defendants, are not obligated on the Wells Fargo debt.

10. The court temporarily halted the sale proposed by Byers and Corley pursuant to the Temporary Restraining Order ("TRO") entered on August 28, 2014.

11. Subsequent to the issuance of the TRO, Byers recommenced negotiations with Plaintiff. Byers is now proposing that the K-Group recommence manufacturing bicycles and components for the Eastern Parties on credit, and that the Eastern Parties will pay the Debt, or some portion thereof, and the new invoices with future sales.

12. The K-Group, reasonably, has no interest in continuing to work with the Eastern Parties. These discussions have stagnated.

13. The Eastern Parties have no cash and no credit in which to continue operating their business. The Eastern Parties have no reasonable prospect or expectation of continuing to operate.

14. The Defendants' intellectual property, however, currently has significant value. That value is likely to diminish as time goes on because it is tied to consumer recognition of the Eastern brand.

15. For the benefit of the Defendants' creditors, including Plaintiff, the Defendants should be liquidated promptly to obtain maximum value for the Eastern brand. Unfortunately, Byers and Corley have shown no interest in promptly liquidating the Defendants' business if they cannot do so for their personal benefit to pay their personally guaranteed debts to Wells Fargo in full without making any payment to Plaintiff.

CONCLUSIONS OF LAW

Preliminary Injunction

16. The purpose of a preliminary injunction is to preserve the status quo until a trial can be had on the merits. *Setzer v. Annas*, 286 N.C. 534, 537 (1975). A

preliminary injunction is an "extraordinary remedy and will not be lightly granted." *Travenol Lab., Inc. v. Turner*, 30 N.C. App. 686, 692 (1976) (citation omitted). The movant bears the burden of establishing the right to a preliminary injunction. *Pruitt v. Williams*, 288 N.C. 368, 372 (1975).

17. A preliminary injunction is properly granted only if the movant is able to show "likelihood of success on the merits of his case," and that he is "likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the court, issuance is necessary for the protection of his rights during the course of litigation." *Triangle Leasing Co. v. McMahon*, 327 N.C. 224, 227 (1990) (citations omitted).

18. It is in the public interest for this court to take swift, appropriate, and carefully tailored action to ensure the equitable distribution of proceeds among creditors of a corporation upon circumstances amounting to a winding-up or dissolution of the corporation. Under such circumstances, the officers and directors of a corporation owe a fiduciary duty to the company's creditors to treat the company's creditors fairly and equally. *Keener Lumber Co. v. Perry*, 149 N.C. App. 19, 31 (2002).

19. To determine whether the circumstances amount to a winding-up or dissolution of the corporation, our appellate courts have identified the following factors:

- a. whether the corporation was insolvent, or nearly insolvent, on a balance sheet basis;
- b. whether the corporation was cash flow insolvent;
- c. whether the corporation was making plans to cease doing business;
- d. whether the corporation was liquidating its assets with a view of going out of business; and

e. whether the corporation was still prosecuting its business in good faith, with a reasonable prospect and expectation of continuing to do so.

Id. at 31.

20. In addition to the fact that Byers stated that he and Corley had begun the liquidation process in the August 14 e-mail, all of these factors favor the determination that the circumstances amount to a winding-up or dissolution of the Eastern Parties. The Eastern Parties do not have sufficient cash or credit to continue as a going concern, and the Eastern Parties have not paid their debts as they came due for years. There is no reasonable prospect or expectation that the Eastern Parties will be able to continue as a going concern.

21. Because the circumstances amount to a winding up of the Eastern Parties' business, Byers and Corley owe a fiduciary duty to the Eastern Parties' creditors, including Plaintiff, to treat all creditors fairly and equally. This "duty is breached if the directors take advantage of their position for their own benefit at the expense of other creditors." *Id.* at 30.

22. Byers and Corley planned and took steps to breach their fiduciary duty to Plaintiff by attempting to sell all of the Defendants' assets, including the valuable Eastern brand, to pay their personally guaranteed debt to Wells Fargo in full without any payment to Plaintiff. Byers and Corley are using their positions as principals and officers of J.M. Deeds and Defendants to secure a personal benefit by satisfying only those debts for which they are personally liable. If Defendants are permitted to favor only those creditors whose debts are personally guaranteed, Plaintiff, as a non-guaranteed creditor of Defendants, would be at risk of significant injury as its claim would go wholly unsatisfied

as a result of the improper distribution by Byers and Corley. The injury caused by the improper liquidation of Defendants' assets would be irreparable.

23. Accordingly, unless Defendants are enjoined from selling their assets or paying debts in a manner other than a pro rata basis, Plaintiff will suffer irreparable injury. Moreover, greater injury would likely be inflicted upon Plaintiff by the denial of injunctive relief than will be inflicted upon Defendants by the granting of such relief.

Appointment of a Receiver

24. Receivership is a "harsh" remedy and "should be utilized only with 'attendant caution and circumspection.'" *Lowder v. All Star Mills, Inc.*, 301 N.C. 561, 577 (1981), *modified in part on other grounds*, 309 N.C. 596 (1983). Appointment of a receiver is within the sound discretion of the trial court, *Barnes v. Kochhar*, 178 N.C. App. 489, 500 (2006), and a receivership is appropriate "only where there is no other safe or expedient remedy." *Murphy v. Murphy*, 261 N.C. 95, 101 (1964).

25. A receiver *pendente lite* may be appointed to liquidate a corporation when the plaintiff establishes "fraud or imminent danger of the property being lost, injured, diminished in value, destroyed, squandered, wasted, or removed from the jurisdiction . . . [or] fraud or gross misconduct in the management of the corporation, where there is incapacity or neglect on the part of those operating it, [and] where there is evidence of diversion of corporate funds." *Lowder*, at 577.

26. The facts of this case show that Byers and Corley have engaged in fraud and gross misconduct in the management of the Eastern Parties. They planned to breach their fiduciary duties to Plaintiff for their personal benefit. Such conduct constitutes constructive fraud. *Keener Lumber Co.*, 149 N.C. App. at 30.

27. The facts of this case also show that the Eastern Parties assets will be wasted if a receiver is not appointed to promptly liquidate the valuable intellectual property. The Eastern Parties have incurred sizeable debts for years. All indications are that the Eastern Parties will continue to incur debts that they cannot pay. Such additional debts reduce the value and the pro rata distribution to the Eastern Parties' creditors. This will destroy the value of the assets for the Eastern Parties' creditors and constitutes waste. See *Royall v. Carr Lumber Co.*, 248 N.C. 735, 737 (1958).

28. Further, the value of the intellectual property has a finite shelf life. Federal courts have long recognized that the appointment of a receiver (or interim trustee in bankruptcy) may be necessary to promptly liquidate assets when the assets are "liable to deteriorate in price and value." COLLIER ON BANKRUPTCY ¶ 2001.02[2] (quoting *Hill v. Douglass*, 78 F.2d 851, 854 (9th Cir. 1935)). If the Eastern brand and associated intellectual property is not promptly liquidated, the consumer recognition of the Eastern brand will diminish with the Eastern Parties' continued inability to manufacture and sell bicycles. To prevent waste of the value of the Eastern brand, the Eastern Parties should be promptly liquidated.

29. The appointment of a receiver is also appropriate when the officers and directors of a corporation refuse to honor their fiduciary duties "and [their] duties to prudently manage the business of" the company they serve. *Lowder* at 574. Byers and Corley have shown that they are not able to honor their fiduciary duties. Their actions show that their goal is to benefit themselves personally, at the Eastern Parties' creditors' expense. Moreover, they are now refusing to promptly liquidate the Eastern Parties under circumstances amounting to a dissolution or winding up of the Eastern Parties.

30. Byers and Corley must “accept the full mantle of responsibilities that attend to the post” as liquidators for the benefit of creditors. See *Piedmont Venture Partners., L.P. v. Deloitte & Touche, L.P.P.*, 2007 NCBC 6 ¶ 63 (J. Diaz 2007). They have refused to do so, and because they are refusing to prudently wind up the Eastern Parties’ business for the benefit of the Eastern Parties’ creditors, a receiver should be appointed to oversee “the winding up of the [Eastern Parties’] affairs.” *Id.* at ¶ 68.

31. In summary, leaving Byers and Corley in control of the Eastern Parties would subject the Eastern Parties’ creditors to irreparable injury caused by fraud, gross mismanagement, waste, and breaches of fiduciary duty. Moreover, greater injury would likely be inflicted upon the Eastern Parties’ creditors, including Plaintiff, by the denial of the appointment of a receiver than will be inflicted upon Defendants by the granting of such relief.

32. George Oliver, Esq. (“Oliver”) has expressed a willingness to serve as receiver to oversee the liquidation of the Eastern Parties. Oliver is duly qualified to undertake this assignment. He has substantial prior experience as a receiver and as Bankruptcy Trustee in the Eastern District of North Carolina.

THEREFORE, based upon the foregoing FINDINGS and CONCLUSIONS, it is ORDERED that the Motion should be GRANTED, as follows:

1. Defendant Ebius Trading & Distributing Company f/k/a Eastern Bikes, Inc., and Defendant Vein Incorporated are IMMEDIATELY ENJOINED and PROHIBITED, directly or indirectly, alone or in concert with others, from selling any property belonging to Defendants or J.M. Deeds, Inc.

2. Further, Defendant Ebius Trading & Distributing Company f/k/a Eastern Bikes, Inc., and Defendant Vein Incorporated are IMMEDIATELY ENJOINED and PROHIBITED, directly or indirectly, alone or in concert with others, from paying the debts of the Defendants or J.M. Deeds, Inc., in any manner other than on a pro rata basis.

3. For good cause shown, George Oliver, Esq., of Oliver Friesen Cheek, PLLC, in New Bern, North Carolina, is hereby APPOINTED as receiver (“Receiver”) for the Eastern Parties. Mr. Oliver is hereby vested with the full authority available to a receiver under North Carolina law, including without limitation the powers set forth in N.C. Gen. Stat. § 55-14-32(c), namely:

- a. To dispose of all or any part of the assets of the corporations wherever located, at a public or private sale;
- b. To sue and defend in his own name as Receiver of the corporation in all courts of this State; and
- c. To exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

In furtherance of his duties as Receiver, Mr. Oliver shall have all the powers and authority usually held by receivers appointed by state courts in North Carolina and reasonably necessary to wind down the Eastern Parties and to accomplish the purposes herein stated, including but not limited to the following powers, which may be exercised without further order of the court:

- a. To take immediate exclusive possession and control of the Eastern Parties’ assets wherever they may be found and to immediately take

whatever steps are reasonably necessary to secure, maintain and protect the Eastern Parties' assets with full power and authority as Receiver to take the same into his possession and to incur expenses as may be necessary or advisable in connection therewith;

b. To enter into the Eastern Parties' premises where any of the Eastern Parties' assets may be, and search for, take possession of, remove, keep and store any of the Eastern Parties' assets until the same will be sold or otherwise disposed of;

c. To operate, manage, maintain, lease, sell, convey or transfer the Eastern Parties' assets in whole or in part as may be in the best interest of the receivership estate provided that such sale, conveyance or transfer if any is approved and confirmed by this court after notice to all parties in interest;

d. To assume full control and management of the Eastern Parties and any subsidiaries;

e. To exercise all of the powers of the Eastern Parties, in place of its board of directors, officers, owners, members, partners and/or managers, to the extent necessary to manage the affairs of the Eastern Parties in the best interests of the Eastern Parties' creditors;

f. To issue subpoenas as may be deemed necessary by the Receiver;

g. To control the attorney-client privilege for the Eastern Parties;

- h. To act immediately to secure and collect the profits, income, revenue, fees, proceeds and all other funds generated by the Eastern Parties assets;
- i. To take immediate possession of all original records, books, bank and other financial accounts, leases, deposits, ledgers, and other materials relating to the operation of the Eastern Parties' business and the ownership of its assets;
- j. To prepare immediately a list of all of the Eastern Parties' lien and general creditors and promptly notify the creditors of his appointment as Receiver;
- k. To employ, discharge, and fix the compensation and conditions for such agents, contractors and employees as are necessary as are necessary to assist in managing, securing and liquidating the Eastern Parties' assets and performing his duties as Receiver;
- l. To enforce any existing contracts and to take such action with respect to such contracts as may be necessary or appropriate to assure the orderly and efficient management of the Eastern Parties' assets. However, nothing herein requires the Receiver to assume any leases or contracts of the Eastern Parties or to perform the obligations arising thereunder, and nothing herein requires the Receiver to pay existing obligations of the Eastern Parties (except as otherwise provided herein);

- m. To negotiate, extend, modify, re-negotiate, ratify or enter into such contracts or other agreements affecting or relating to any part or all of the Eastern Parties assets;
- n. To establish and maintain bank accounts in the name of the Receiver for the deposit of monies and funds collected and received in connection with the Receiver's administration of the Eastern Parties' assets, and to write checks and make withdrawals on such accounts;
- o. To execute and prepare all documents and perform all acts in the name of the Eastern Parties which are necessary or incidental to preserving, protecting, managing and controlling the Eastern Parties' assets or which are necessary or incidental to carrying out the powers granted herein and shall institute any and all necessary ancillary proceedings in the State of North Carolina which are necessary to preserve and protect the Eastern Parties' assets;
- p. To keep the Eastern Parties' assets insured to the extent necessary or appropriate including, but not by way of limitations, fire and extended coverage and general liability insurance;
- q. To hire and retain and otherwise obtain the advice and assistance of such legal counsel and accounting and other professionals as may be necessary to the proper discharge of the Receiver's duties, with all reasonable expenses incurred in connection therewith deemed to be expenses of the receivership without the permission of the court (and to pay

such professionals from the rents, revenues, and proceeds of the Eastern Parties' assets without further application to or order of the court);

r. To defend all actions at law or in equity which may be brought against it or against the Eastern Parties;

s. To collect receivables and claims arising from the Eastern Parties' assets;

t. To exercise all of Eastern Parties' rights and remedies with respect to proceedings brought to collect any amounts due, including but not limited to, Defendants' Counterclaims in this Action;

u. To notify any parties obligated on any of the accounts of the Eastern Parties to make payment directly to the Receiver of any amounts due or to become due thereunder;

v. To surrender, release or exchange all or any part of any accounts of the Eastern Parties, or compromise or extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder;

w. To have continuing access to mail or other correspondence to and from the Eastern Parties concerning the Eastern Parties' assets;

x. To perform ordinary and necessary repairs and maintenance on any of the Eastern Parties' assets;

y. To account to this court for all sums received and expenditures made;

- z. With respect to any operation or activity that is now conducted with the Eastern Parties' assets or is customarily conducted with similar property, and that may lawfully be conducted only under governmental license or permit, to continue such operation or activity under the license or permits issued to the entity subject to compliance with the terms thereof;
- aa. To pay prior obligations incurred by the Eastern Parties, its agents and employees, or any other person or entity charged with the responsibility of maintaining and operating the Eastern Parties' assets, if such obligations are deemed by the Receiver to be necessary or advisable for the continued operation of the Eastern Parties;
- bb. To notify any and all insurers under insurance policies affecting the Eastern Parties' assets of the pendency of these proceedings and that, subject to the prior rights of any party holding a lien encumbering the Eastern Parties' assets, any proceeds paid under any insurance policies shall be paid to the Receiver until such time as the said insurance carriers are advised to the contrary by this court or until they receive evidence of the dismissal of this action;
- cc. To bring all actions at law or in equity, or, as the case may be, such other proceedings as may be necessary and proper to administer and liquidate the Eastern Parties' assets;
- dd. To have all other powers and authority granted to a receiver under G.S. § 1-501 *et. seq.* and/or by further Order of this court; and

ee. Generally to do such other lawful acts as the Receiver reasonably deems necessary to effective operation and management of the Eastern Parties' assets, and to perform such other functions and duties as may from time to time be required and authorized by this court, by the laws of the State of North Carolina or by the laws of the United States of America.

4. No named party shall, directly or indirectly, cause or allow any expenditure or disbursement of any money, proceeds or assets of the Eastern Parties pending further order of the court.

5. All financial and business records for the Eastern Parties shall be gathered, preserved and made available to the Receiver immediately. Any records received at any time in the future are to be immediately delivered to the Receiver.

6. The location of all assets of the Eastern Parties shall be provided to the Receiver immediately. Any assets of the Eastern Parties received at any time in the future are to be immediately delivered to the Receiver.

7. No party, directly or indirectly, shall take any action designed to, or negligently causing or allowing the waste, disposal, theft or disposition of any asset of the Eastern Parties.

8. The Receiver shall be deemed to be, and shall have the duties and powers of, a trustee in an assignment for benefit of creditors in G.S. § 23-3 to recover property conveyed fraudulently or in preference and the recording of this Order shall constitute and be deemed the registration of a deed of assignment as provided therein and pursuant to G.S. § 23-1.

9. The Receiver shall file with this court within forty-five (45) days from the date hereof, or such other time as the court may order, an itemized and detailed list of all property owned by the Eastern Parties and identifying so far as it can determine, all debts and obligations of the Eastern Parties or encumbrances related to the property in its possession.

10. The Receiver, together with such members and employees of his law firm rendering services in connection with this receivership, shall be entitled to their customary hourly rates, plus expenses, from the revenues held, accrued or accruing from the liquidation of the Eastern Parties' assets following notice and approval of such fees and expenses by this court.

11. The Receiver shall be paid in accordance with G.S. § 1-507.9, after approval by the court.

12. The Receiver shall be entitled to pay all premiums for the bond required of the Receiver, premiums on any insurance policies required to protect the Defendant or its assets, any taxes, and all other expenses and charges incurred in the ordinary course of liquidation, or by authorization of the court, which he considers to be reasonable and appropriate in the exercise of his duties during the receivership, to the extent revenues and proceeds from the liquidation of the Defendant's assets are available to do so. The cost of discharging any other obligations or liabilities with respect to the Defendant, including the Receiver's fees, commissions and attorney's fees, shall not be paid without the notice and further orders of the court. The aforementioned bond shall be in an amount of \$10,000.00. This Order, however, shall be immediately effective. The Receiver shall have until 5:00 p.m. on September 15, 2014 to post the Receiver's bond.

13. The Eastern Parties and their employees, representatives, agents and all persons acting in concert with the Eastern Parties, for it and on its behalf, are directed to cooperate with the Receiver to the fullest extent possible and are enjoined from interfering with the Receiver's actions pursuant to this court's Order. Upon request or when deemed necessary, the parties or their agents shall explain the operation, maintenance and management of the Eastern Parties and the Eastern Parties' assets.

14. Nothing herein shall preclude the Receiver, who is a panel trustee for the United States Bankruptcy Court for the Eastern District of North Carolina, from serving as a Chapter 7 trustee for the Eastern Parties in the event a subsequent voluntary or involuntary bankruptcy proceeding is filed for or against the Eastern Parties.

15. Other than Plaintiff's continuance of this lawsuit, all creditors of the Eastern Parties are hereby enjoined and restrained from in any way interfering with or disturbing the property and assets of the Eastern Parties, subject to further order of this court after written motion filed and served on the Receiver and counsel for the parties.

16. All officers, directors, agents, shareholders, members and employees of the Eastern Parties and all other persons interested in the Eastern Parties or their businesses or assets, except as directed or consented to by the Receiver, are enjoined and prohibited from (a) interfering with, transferring, selling, or disposing of any of the property, income or assets of the Eastern Parties, (b) from taking possession of or levying upon or attempting to sell or dispose of in any manner any part of the property of the Eastern Parties, (c) from involving themselves in the possession, operation or management of the Eastern Parties' business, or (d) in any way from interfering with the duties or performance of the Receiver except as expressly permitted by the Receiver.

17. The Receiver is hereby authorized, empowered and directed to apply to this court, with notice to the parties, for issuance of such other orders as may be necessary and appropriate in order to carry out the mandate of this court.

18. For purposes of this Order, "assets" mean any legal or equitable interest in, right to, or claim to, any real or personal property, tangible or intangible, whether individually or jointly, directly or indirectly controlled, and wherever located, including, but not limited to: patents, licenses, intellectual property, chattels, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts (including, but not limited to, bank accounts and accounts at financial institutions), credits, receivables, lines of credit, contracts, insurance policies, and all cash, wherever located.

19. On or before 5:00 p.m. on September 15, 2014, the Plaintiff shall post security for the issuance of this Order in the amount of \$70,000.00 as required by Rule 65(c), in a form satisfactory to the Clerk of Superior Court of Wake County. The Plaintiff previously posted security in the amount of \$5,000.00 for the issuance as the Temporary Restraining Order and that amount will continue to serve as security for this Order.

20. This Order shall be effective immediately and shall be in effect for the duration of this litigation or until otherwise ordered by this court.

This the 5th day of September, 2014.

/s/ John R. Jolly, Jr.
John R. Jolly, Jr.
Chief Special Superior Court Judge for
Complex Business Cases