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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

AMERICAN FINANCIAL BENEFITS CENTER, a corporation, also d/b/a AFB and AF STUDENT SERVICES; AMERITECH FINANCIAL, a corporation; FINANCIAL EDUCATION BENEFITS CENTER, a corporation; and BRANDON DEMOND FRERE, individually and as an officer of AMERICAN FINANCIAL BENEFITS CENTER, AMERITECH FINANCIAL, and FINANCIAL EDUCATION BENEFITS CENTER,

Defendants.

Case No. 4:18-cv-00806-SBA

STIPULATION AND [PROPOSED] ORDER TO FUND PRE-RECEIVERSHIP PAYROLL

JUDGE: Mag. Judge Jacqueline Scott Corley
CTRM.: 15th Floor, Ctrm. F

The Preliminary Injunction Order (ECF No. 187, "PI Order") provides "[t]he Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure Assets of the Corporate Defendants, such as rental payments" (PI order at p. 7 lines 1-4). At the time of the Receiver's appointment, the Corporate Defendants owed payroll for the period 11/19 – 11/29/18. At the Receiver's request, Defendant Frere agreed on December 13 to wire funds back to the Corporate Defendants, so long as the Receiver agreed to use the funds for pre-receivership payroll. The Receiver agreed. At

this point, Defendant Frere has forwarded $83,945.86 to the Receiver for pre-receivership payroll, which is insufficient to fully fund payroll. Mr. Frere intends to wire more funds when he is able to access another bank account, but that is not likely to occur until at least Friday, December 21.

The parties agree with the Receiver's application to use the funds returned by Defendant Frere for pre-receivership payroll. The payroll issued through the Receiver will be limited to regular pay only, hours worked during the pay period of 11/19 – 11/29/18 at normal hourly rates. The payroll will not include commissions, bonuses, car and cell phone allowances, reimbursements or any other forms of compensation. The parties and the Receiver recognize the need to get at least some of the payroll issued to employees as soon as possible, particularly in light of the upcoming holidays. As such, the parties and the Receiver request the authority to issue interim pro-rata distributions. For example, the Receiver will distribute the $83,945.86 for payroll as soon as possible on a pro-rata basis. If and when Defendant Frere forwards additional funds as contemplated, then further pro-rata distributions will be made will be made up to the point that regular pay is entirely funded.

Dated: December 19, 2018

MCNAMARA SMITH LLP[1]

By: /s/ Sanjay Bhandari
Attorneys for Court-appointed Receiver, Thomas W. McNamara

Dated: December 19, 2018

FEDERAL TRADE COMMISSION

/s/ Sarah Schroeder
Sarah Schroeder
Roberta Tonelli
Evan Rose
Attorneys for Plaintiff Federal Trade Commission

Dated: December 19, 2018

ROPERS,MAJESKI, KOHN & BENTLEY

By: /s/ Nicole S. Healy
Attorneys for Defendants American Financial Benefits Center, Ameritech Financial, Financial Education Benefits Center, and Brandon D. Frere

[1] Pursuant to Civ. L.R. 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from every other signatory listed.

[PROPOSED] ORDER

Pursuant to the stipulation, the Receiver is authorized to use the $83,945.86 received from Defendant Frere to pay pre-receivership regular pay, hours worked during the pay period of 11/19 – 11/29/18 at normal hourly rates. In calculating regular pay, the Receiver will not include commissions, bonuses, car and cell phone allowances, reimbursements or any other forms of compensation. The Receiver is authorized to make an immediate interim payroll distribution up to the amount forwarded thus far by Defendant Frere ($83,945.86). If, and when, the contemplated additional funds are transferred from Defendant Frere, the Receiver is authorized to make additional payroll distributions on a pro rata basis up to the point that regular pay is entirely funded.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____, 2018

By:_____
Jacqueline Scott Corley
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of December, 2018, the foregoing document, **STIPULATION AND [PROPOSED] ORDER TO FUND PRE-RECEIVERSHIP PAYROLL**, was electronically transmitted to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system.

/s/ Sanjay Bhandari
Sanjay Bhandari
Attorneys for the Court-Appointed Receiver, Thomas W. McNamara