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14 *Attorneys for Plaintiff Federal Trade Commission*

15 UNITED STATES DISTRICT COURT
 16 FOR THE DISTRICT OF NEVADA

17
 18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 JEREMY JOHNSON, individually, as officer of
 Defendants I Works, Inc.; Cloud Nine, Inc.; CPA
 22 Upsell, Inc.; Elite Debit, Inc.; Internet Economy,
 Inc.; Market Funding Solutions, Inc.; and
 Success Marketing, Inc.; as a member of
 23 Defendant Network Agenda LLC; and as the *de*
 24 *facto* principal of numerous Defendant Shell
 Companies; I WORKS, INC., *et al.*

25 Defendants.

Case No. 2:10-cv-02203-RLH-GWF
 PLAINTIFF FTC'S OPPOSITION
 TO DEFENDANT JOHNSON'S
 MOTION TO VACATE ORDER
 AND VOID SALE

1 Defendant Jeremy Johnson has asked the Court to unring a bell. His Motion to Vacate
2 Order and Void Sale (“Johnson’s Motion”) seeks to void this Court’s August 26th Order that,
3 among other things, authorized Robb Evans of Robb Evans and Associates LLC’s (“Receiver”),
4 the Court-appointed receiver, to auction certain personal property at an auction held on
5 September 24th, liquidate an investment account, and list for sale, not sell, certain houseboats,
6 aircraft, and real property in an effort to preserve the Receivership Estate. Johnson claims that
7 the Court should void the sale and vacate the Order pursuant to Federal Rules of Civil Procedure
8 60(b)(4) and 60(b)(6), because he was denied “due process,” and further lists myriad affronts to
9 him.

10 The property auctioned on September 24th is gone, having been bought by good-faith
11 purchasers. The proceeds of the sale remain secure in the possession of the Receiver. Johnson’s
12 Motion fails to explain how the Court can undue these numerous sales. Moreover, Johnson has
13 not been denied due process and does not warrant relief under Rules 60(b)(4) or 60(b)(6). While
14 Johnson contends that he had no notice of the Order the facts belie the statement. First, Johnson
15 was aware of the Receiver’s Motion for Sale, and was able to file an opposition even though he
16 was incarcerated. Second, on September 9, 2011, his wife filed a motion to intervene for the
17 purpose of appealing the same Order of which he claims not to have been informed. And,
18 finally, Johnson has been constantly plugged in to the case, even during his incarceration; for
19 example, on the day the Order was issued, counsel representing Johnson’s interest in this
20 litigation attended a deposition in this case. Therefore, Johnson’s Motion should be denied.

21 22 **Facts and Background**

23 On December 21, 2010, the Federal Trade Commission (“FTC”) filed its Complaint (the
24 “Complaint”) [D.E. 1] against defendants. On January 12, 2011, the FTC filed an Emergency *Ex*
25 *Parte* Motion for a Temporary Restraining Order (“TRO”) along with a Motion for a Preliminary
26 Injunction [D.E. 42]. 2011. On January 13, 2011 this Court issued a TRO, which, among other
27

1 things, included a freeze on the assets of the corporate defendants and Johnson, in order to
2 preserve the possibility of consumer redress, and appointed Robb Evans of Robb Evans and
3 Associates, LLC as temporary receiver of the corporate defendants and the assets of Johnson (the
4 “Receivership Defendants”). On that same day, the Court set the matter for hearing on the
5 motion for a preliminary injunction for January 25, 2011. On February 10, 2011, after providing
6 extended time to defendants for briefing and after hearing a full day of arguments of counsel,
7 this Court issued a preliminary injunction order (“PI”) continuing the asset freeze and
8 receivership and appointing Robb Evans as a permanent Receiver for the Receivership
9 Defendants.

10 On May 27, 2011, the Receiver filed a motion for an order: (1) Authorizing and
11 Confirming Sale of Personal Property by Public Auction; (2) Authorizing and Confirming Sale
12 and Redemption of Investment Interest; (3) Authorizing Receiver to List and Offer for Sale
13 Houseboats, Aircraft and Multiple Real Properties; and (4) Granting Relief from Local Rule
14 66-5 Pertaining to Notice to Creditors with an accompanying notice and proposed order
15 (“Receiver’s Motion”) [D.E. 227 and 228]. The Receiver agreed to allow Johnson an extra week
16 to respond to the Receiver’s Motion and eventually, oppositions to the Receiver’s Motion were
17 filed by both Johnson and his companies (“Johnson defendants”)¹ and defendant Duane Fielding
18 and corporate defendants Anthon Holdings, Inc., and Network Agenda, LLC. Both the Receiver
19 and the FTC filed replies in response to the oppositions; and on August 26, 2011, the Court
20 entered the Order which, among other things, authorized the Receiver to sell certain personal
21 property by public auction and liquidate an investment account. [D.E. 288]

22 After the entry of the Order, the Receiver proceeded to schedule and advertise public
23 auctions for September 24, 2011 and October 4, 2011. On September 9, 2011, Sharla Johnson,
24 defendant Johnson’s spouse, filed a Motion to Intervene for the Purposes of Appealing the Order
25 [D.E. 292]. On September 22, 2011, the Johnson defendants filed a notice of appeal of the Order

26
27 ¹ Johnson was able to file his opposition to the Receiver’s Motion that included a declaration by him after
he was taken into custody by IRS agents prior to his boarding a flight to Costa Rica on June 15, 2011.

1 [D.E. 293]. On September 23, 2011, Johnson filed an *Ex Parte* Emergency Motion to Stay the
2 Enforcement of the Judgment Pending Appeal [D.E. 298]. Due to an apparent ECF docketing
3 mistake, Johnson's stay motion was initially denied. On that same day, the Fielding defendants
4 filed a separate notice of appeal [D.E. 296] along with an emergency motion for a stay and
5 memorandum in support of the emergency motion for a stay [D.E. 294 and 295]. On September
6 24, 2011, certain receivership property, including office furniture, computers and three
7 automobiles were sold at auction. An auction of call center office equipment was scheduled for
8 October 4, 2011.

9 On September 28, 2011, Johnson filed an Emergency Motion to Stay Enforcement of
10 Judgment Pending Appeal [D.E. 308], and the Court entered a Minute Order temporarily staying
11 the October 4th auction and the further enforcement of the Order and scheduling a hearing on
12 Sharla Johnson's Motion to Intervene and Johnson and the Fielding defendants' Stay Motions
13 for October 14, 2011. On October 3, 2011, Johnson and the Fielding defendants filed separate
14 motions to vacate the September 24th sales and void the August 26 Order. [D.E. 324 and D.E.
15 322 and 323 respectively.] Finally, on October 6, 2011, the Court amended its Minute Order
16 adding Johnson and the Fielding defendants' motions to vacate the September 24th sales and void
17 the Order to the Court's October 14 Hearing. [D.E. 328]

18 19 Argument

20 **I. Johnson Fails to Qualify for Relief Pursuant to Rule 60(b).**

21 Johnson's Motion seeks relief pursuant to Rules 60(b)(4) and 60(b)(6), asserting that he
22 was denied due process and proper notice. Johnson further claims to warrant relief because the
23 sale of personal property at auction on September 24th did not comply with 28 U.S.C. §§ 2001
24 and 2004. All of these arguments are meritless. Both case law and facts demonstrate that:
25 (1) Johnson was not deprived of his due process rights or proper notice; (2) he suffered no
26 manifest injustice; and (3) the Court did not abuse its discretion in deviating from 28 U.S.C. §§
27 2001 and 2004.

1 A. *Johnson was not been denied due process and thus no relief is warranted under*
2 *Rule 60(b)(4).*

3 The Ninth Circuit has held that “a judgment may be set aside on voidness grounds under
4 Rule 60(b)(4) for a violation of the due process clause of the Fifth Amendment.” *Owens-Corning*
5 *Fiberglas Corp. v. Ctr. Wholesale, Inc. (In re Ctr. Wholesale, Inc.)*, 759 F.2d 1440, 1448 (9th
6 Cir. 1985). The Supreme Court has noted though that, “[A] motion under Fed. R. Civ. P.
7 60(b)(4) is not a substitute for a timely appeal.” *United Student Aid Funds, Inc. v. Espinosa*, 130
8 S. Ct. 1367, 1377 (2010). Furthermore, the Supreme Court has cautioned that, “Rule 60(b)(4)
9 applies only in the rare instance where a judgment is premised either on a certain type of
10 jurisdictional error or on a violation of due process that deprives a party of notice or the
11 *opportunity to be heard.*” *Id.* (emphasis added). The Supreme Court has noted that “due
12 process” in this context, requires “notice reasonably calculated, under all the circumstances, to
13 apprise interested parties of the *pendency of the action and afford them an opportunity to present*
14 *their objections.*” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)
15 (emphasis added).

16 Unlike the cases cited as support for his claim of relief pursuant to Rule 60(b)(4),
17 Johnson was given notice of the Receiver’s Motion and provided with extra time to respond.
18 The cases Johnson cites are easily distinguishable. In *In re Loloee*, 241 B.R. 655 (B.A.P. 9th
19 Cir. 1999) the court held that an improperly served notice of motion which, among other things,
20 improperly invoked a non-existent local rule and failed to disclose that the effect of the sale
21 would be to remove the appellant as the senior lien holder on real property subject to the motion
22 for sale had prevented the appellant from having the opportunity to oppose the motion.
23 Furthermore, the court signed the sale order prior to the scheduled hearing on the motion. Thus,
24 in contrast to Johnson, since the appellant was never given an opportunity to contest the sale
25 motion, Rule 60(b)(4) applied. Similarly, in *In Ex-Cel Concrete*, 178 B.R. 198 (9th Cir. B.A.P.)
26 the appellant court found that Rule 60(b)(4) applied because Citicorp Mortgage, Inc., a senior
27 lien holder for the property in question, was never served with notice of a hearing regarding sale

28 *FTC Opp to Johnson’s Motion to Vacate and Void*
 FTC v. Jeremy Johnson., et al.

1 of that property, and thus only became aware of the sale motion more than a month after the
2 court approved the actual sale.

3 Furthermore, Johnson invariably received notice of the Order that approved the sale,
4 notwithstanding the ECF docket error or Johnson's statement that he erroneously thought all
5 actions in the case had been stayed pursuant to the Stipulated Limited Stay of Proceedings
6 endorsed and entered by this Court on July 14, 2011 [D.E. 263]. First, the language of the
7 Stipulation is clearly to the contrary. Second, his wife, Sharla Johnson, filed a motion to
8 intervene for the purposes of appealing the Order on September 9, 2011. It is highly unlikely
9 that Ms. Johnson took such an action without informing her husband. And third, Johnson
10 continued to have counsel represent his interest even while incarcerated. For example, on the
11 same day that the Court issued the Order, attorney Travis Marker attended his second day of
12 depositions in which he identified that he was there representing Johnson's in connection with
13 the FTC's action. See, partial transcripts of *Deposition of Brent Peterson*, pp. 2, 4, and
14 *Deposition of Arvin Lee Black*, pp. 2, 5, attached to this opposition as Attachments A and B.

15 Since Johnson was given ample opportunity and time to (1) respond to the Receiver's
16 Sale Motion and (2) knew of the Order issued pursuant to that motion, Johnson was not deprived
17 of due process. Thus, Johnson's Motion to Void Sale pursuant to Rule 60(b)(4) should be
18 denied.

19 *B. Johnson's claim pursuant to Rule 60 (b)(6) is without merit.*

20 Johnson also claims that since he was not properly notified, the Order should be vacated
21 and the sales at the September 24th auction should be voided pursuant to Rule 60(b)(6). Like his
22 due process claim, this claim is without merit and should be denied.

23 The Ninth Circuit refers to Rule 60(b)(6) as the "so called catch-all provision." *Harvest*
24 *v. Castro*, 531 F.3d 737, 749 (9th Cir. 2008). Pursuant to Rule 60(b)(6) a court can "relieve a
25 party. . . from a final judgment, order, or proceeding for . . . any other reason [in addition to
26 those categories identified in Rules 60(b)(1)-(5)] that justified relief." *Fed. R. Civ. P. 60(b)(6)*.
27 To warrant relief pursuant to the rule, a party must "demonstrate both injury and circumstances

28 *FTC Opp to Johnson's Motion to Vacate and Void*
FTC v. Jeremy Johnson., et al.

1 beyond his control that prevented him from proceeding with the action in a proper fashion.”
2 *Harvest*, at 749 (quoting *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1103 (9th Cir.
3 2006)). The Ninth Circuit cautioned that Rule 60(b)(6) is to be “used sparingly” to “prevent
4 manifest injustice” and only where “extraordinary circumstances prevented a party from taking
5 timely action to prevent or correct an erroneous judgment.” *Latshaw* at 1103.

6 Again, the case cited by Johnson simply highlight the weakness of his claim. In *In re*
7 *Birdneck Apartment Associates, II, L.P.*, 152 B.R. 65 (E.D. Va. 1993) the court held that Rule
8 60(b)(6) applied because the creditor was never given notice of the debtor’s filing of an amended
9 bankruptcy plan and hearing on confirmation of that amended plan. That situation is easily
10 distinguishable from Johnson’s, where Johnson had ample opportunity to, and did in fact, oppose
11 the Receiver’s Motion. Because Johnson was given notice of the Receiver’s Motion and given
12 ample time to oppose it, Johnson suffered no injury and the entry of the Order and the auction
13 held pursuant to the Order did not amount to manifest injustice.

14 C. *The Court did not abuse its discretion in deviating from 28 U.S.C. § 2001 and*
15 *2004.*

16 While 28 U.S.C. §§ 2001 and 2004 layout a framework of how sales of real and personal
17 property should be noticed, district courts have wide latitude in adopting a procedure for the sale
18 and appellate courts will not disturb the exercise of the district court’s discretion in setting the
19 terms and conditions for a sale, including, if necessary, deviating from notice requirements. *See*
20 *United States v. Branch Coal Corp.*, 390 F.2d 7 (3rd Cir. 1968) *cert. den. sub. nom. Sun*
21 *Protection Co. v. United States.*, 391 U.S. 966 (1968).

22 Here, the Receiver properly explained his sound business reasons for requesting to
23 deviate from 28 U.S.C. § 2004, and the Court properly exercised its discretion in its Order
24 allowing the Receiver to do so. Furthermore, Johnson failed to oppose the Receiver’s request to
25 deviate from 28 U.S.C. § 2004 and thus should not be allowed to attempt to void the Order on
26 those grounds now. Therefore, since the Court did not abuse its discretion, Johnson’s claim
27 from relief should be denied.

1 *D. Johnson is not entitled to relief under Rule 60(b).*

2 Finally, Johnson claims that since he was only given one week to appeal the Order and
3 his motion to stay was stricken due to a clerical error, he is generally entitled to relief under Rule
4 60(b). This is simply not the case.

5 While Johnson couches his claim generally under Rule 60(b), this is in fact another claim
6 pursuant to Rule 60(b)(6), and again Johnson fails to demonstrate either injury or manifest
7 injustice. The Receiver has acted within the scope of his duties regarding the Order and the
8 auction pursuant to the Order, and the Receiver was properly appointed. Johnson had notice of
9 the Receiver's Motion and was able to oppose it. Johnson was able to appeal the Order and get
10 the Order temporarily stayed. The items sold at auction consisted of office equipment and
11 personal property not of a unique nature. Given all of these facts, Johnson has not shown that
12 the Courts clerical error has injured him or worked a manifest injustice, therefore his claim for
13 relief should be denied.²

14
15 **Conclusion**

16 For the foregoing reasons, the FTC respectfully requests that the Court deny Johnson's
17 Motion to Vacate Order and Void Sale.

18
19 Dated: October 12, 2011

Respectfully submitted,

20
21 /s/J. Ronald Brooke, Jr.
22 Collot Guerard
23 J. Ronald Brooke, Jr.
24 Janice L. Kopec
25 Dotan Weinman

*Attorneys for the Plaintiff
Federal Trade Commission*

26
27 _____
28 ² Since Johnson does not warrant relief under any of his claims no discussion of remedies is necessary.

CERTIFICATE SERVICE

I hereby certify that I have on October 12, 2011 caused the foregoing document to be served via the ECF system on the following:

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Boyack & Boyack
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Gary Owen Caris, Esq.
Lesley Anne Hawes, Esq.
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Attorneys for the Receiver

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and by first class mail, postage prepaid on:

Jeremy D. Johnson
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Sharla Johnson
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St. George, UT 84770

/s/ J. Ronald Brooke, Jr.
J. Ronald Brooke, Jr.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	Case Number
	:	2:10-CV-02203-RLH-GWF
	:	
vs.	:	
	:	
JEREMY JOHNSON, individually,	:	
as officer of Defendants	:	
I Works, Inc., Cloud Nine,	:	
Inc., CPA Upsell, Inc.,	:	
Elite Debit, Inc., Internet	:	
Economy, Inc., Market	:	
Funding, Inc., and Success	:	
Marketing, Inc.; as a member	:	
of Defendant Network Agenda,	:	
LLC; and as the de facto	:	
principal of numerous	:	
Defendant Shell Companies;	:	
I WORKS, INC., et al.,	:	
	:	
Defendants.	:	
_____	:	

DEPOSITION OF BRENT FOGG PETERSON,
Taken before Rory Johnson, RPR, at 9:00 a.m. on
Thursday, August 25th, 2011, 321 N. Mall Drive, Bldg. R,
St. George, Utah.

APPEARANCES

Appearing on behalf of the Plaintiff:

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Appearing on behalf of the Defendant Jeremy Johnson:

Travis Marker
ATTORNEY AT LAW
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St. George, UT 84770

* * *

I N D E X

EXAMINATION	PAGE
By Mr. Caris	4
By Ms. Kopec	211

* * *

E X H I B I T S

Exhibit No.	Description	Marked
453	Building Site on Foremaster Drive	90
454	Zibby, LLC Check #3104 to B Peterson	145
455	Zibby, LLC Check #3101 to B. Peterson	147
456	Online Auction Solutions Check #3168 to B. Peterson	148

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BRENT FOGG PETERSON,

was thereupon called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CARIS:

Q Good morning. Could you state your full name for the record.

A My name is Brent Fogg, F-O-G-G, Peterson, S-O-N.

Q P-E-T-E-R-S-O-N?

A Right.

Q Thank you, Mr. Peterson. My name is Gary Caris, I'm an attorney with McKenna, Long and Aldridge in Los Angeles. And before we begin, because there is an attorney from the Federal Trade Commission on the phone, I'd like everybody to state their appearances on the record, and then we can go into the ground rules of the deposition so that you're familiar with the procedure.

Again, I'm Gary Caris with McKenna, Long and Aldridge. I represent the receiver Rob Evans of Rob Evans and Associates, LLC, in a lawsuit brought by the Federal Trade Commission in the Las Vegas District Court entitled Federal Trade Commission versus Jeremy Johnson. There are numerous other defendants in that action, and my client is the receiver over the assets of Jeremy

1 Johnson and several other entity defendants in that case.

2 MR. KANE: I'm Brick Kane, the president
3 and Chief Operating Officer of Rob Evans and
4 Associates, LLC, the receiver in this case.

5 MR. MARKER: I'm Travis Marker, special
6 appearance for Jeremy Johnson as attorney.

7 MS. KOPEC: And on the phone this is
8 Janice Kopec appearing on behalf of the Federal
9 Trade Commission.

10 MR. CARIS: Mr. Marker, we had a brief
11 discussion off the record, and you're
12 indicating that your appearance is on behalf of
13 Jeremy Johnson in connection with the Federal
14 Trade Commission litigation I just described;
15 is that right?

16 MR. MARKER: Yes.

17 MR. CARIS: And you're here especially for
18 Jeremy Johnson?

19 MS. KOPEC: Yes.

20 MR. CARIS: Based on that we don't object
21 to your attending today's deposition in that
22 capacity.

23 MS. KOPEC: Similarly, the Federal Trade
24 Commission does not have an objection of Mr.
25 Marker being present in the deposition based on

1 you could please put them in a separate letter
2 designating the page and line that you feel
3 needs to be changed in describing the change,
4 and that he will do all of that and return the
5 signed transcript signed under penalty of
6 perjury along with any changes within 30 days
7 of the date that it is sent to him. Is that
8 okay?

9 THE WITNESS: Yes.

10 MR. CARIS: And if I can ask you to put on
11 the record the address to where you want the
12 transcript sent?

13 THE WITNESS: So it's Brent Peterson at
14 2525 West 1050 North, Hurricane, Utah 84737.

15 MR. CARIS: Thank you very much, again.

16 THE WITNESS: Thank you.

17 (Deposition concluded at 3:45 p.m.)

18 (Reading and signing reserved.)

19 * * *

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1 STATE OF UTAH)
) SS.
 2 COUNTY OF WASHINGTON)

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4 I, RORY JOHNSON, Certified Court Reporter,
 Registered Professional Reporter and Notary Public for the
 5 State of Utah, certify:

6 That the foregoing deposition of
 BRENT FOGG PETERSON, was taken before me pursuant to
 7 Notice at the time and place therein set forth, at which
 the witness was put on oath by me;

8

9 That the testimony of the witness and all
 objections made at the time of the examination were
 recorded stenographically by me and were thereafter
 10 transcribed;

11 That the foregoing deposition is a true record
 of the testimony and of all changes made by the witness
 12 and of all objections made at the time of the examination.

13 I further certify that I am neither counsel for
 nor related to any party to said action nor in anywise
 14 interested in the outcome thereof.

15 IN WITNESS WHEREOF, I have subscribed my name
 and affixed my seal this 6th day of September, 2011.

16

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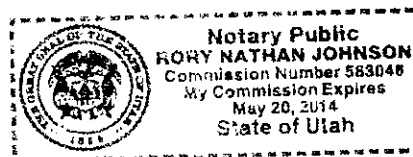
RORY N. JOHNSON, RPR
 Notary Public in and for
 20 Washington County, State of Utah

20

My Commission Expires:
 21 May 20, 2014

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	Case Number
	:	2:10-CV-02203-RLH-GWF
	:	
vs.	:	
	:	
JEREMY JOHNSON, individually,	:	
as officer of Defendants	:	
I Works, Inc., Cloud Nine,	:	
Inc., CPA Upsell, Inc.,	:	
Elite Debit, Inc., Internet	:	
Economy, Inc., Market	:	
Funding, Inc., and Success	:	
Marketing, Inc.; as a member	:	
of Defendant Network Agenda,	:	
LLC; and as the de facto	:	
principal of numerous	:	
Defendant Shell Companies;	:	
I WORKS, INC., et al.,	:	
	:	
Defendants.	:	
_____	:	

DEPOSITION OF ARVIN LEE BLACK, II,
Taken before Rory Johnson, RPR, at 9:00 a.m. on
Friday, August 26th, 2011, 321 N. Mall Drive, Bldg. R,
St. George, Utah.

APPEARANCES

Appearing on behalf of the Plaintiff:

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Appearing on behalf of the Receiver:

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Appearing on behalf of the Defendant, Jeremy Johnson:

Travis Marker

ATTORNEY AT LAW

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St. George, UT 84770

travis@attorneyut.co

Also present: Brick Kane, receiver

* * *

I N D E X
EXAMINATION PAGE

By Mr. Caris 4

* * *

E X H I B I T S

Exhibit No.	Description	Marked
457	TD Ameritrade Trading Authorization on Limited Liability Company Accounts	104
458	TD Ameritrade Think or Swim Document	114
459	Futures Entity Questionnaire	119
460	LLC Investment Club or Partnership Account Application	122
461	10-13-10 Cashier's Check from Arvin Black to Paydirt Capital	153
462	4-29-11 Zions Bank Statement for Paydirt Capital	174
463	9-10-10 Wire Transfer by Sole Group to Paydirt Capital, amount of \$210,000	186
464	Wells Fargo Account Statement for Kombi Capital	189
465	Zions Bank Statement for Sole Group	195
466	2-25-11 Sole Group Check to Paydirt Capital for \$300,000	199
467	Sole Group Check to Paydirt for \$16,111	202
468	3-1-11 Teller Transfer for \$300,000	206
469	Sole Group Check to Triple 7 amount of \$42,996	208

* * *

Page 3

DepoPro, LLC

213-244-9668

Lee Black Vol. I 8/26/2011

Attachment B

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ARVIN LEE BLACK, II,
was thereupon called as a witness on behalf of the
Plaintiff, and having been first duly sworn, was examined
and testified as follows:

EXAMINATION

BY MR. CARIS:

Q Mr. Black, could you state your full name for
the record.

A Arvin Lee Black, II.

Q Mr. Black, my name is Gary Caris of McKenna,
Long and Aldridge in Los Angeles, California, and I
represent the receiver Rob Evans of Rob Evans and
Associates, LLC, who has been appointed receiver in
connection with the action brought in the United States
District Court in Las Vegas, Nevada, in an action which
is captioned Federal Trade Commission versus Jeremy
Johnson. There are a number of other defendants in that
lawsuit. Jeremy Johnson is the first named defendant.
And my client was appointed receiver over the assets of
Jeremy Johnson and over several various entity
defendants. Are you generally familiar with that
lawsuit?

A I've heard of it obviously.

Q Before we get started, because there is an
attorney on the phone, I'd want everyone to state their

1 name on the record. As I said before, I'm Gary Caris,
2 representing the receiver, Bob Evans of Rob Evans and
3 Associates.

4 MR. KANE: I'm Brick Kane with the
5 receiver's office.

6 MR. MARKER: I'm Travis Marker making a
7 special appearance for Jeremy Johnson as
8 counsel.

9 MR. CARIS: Mr. Weinman.

10 MR. WEINMAN: Mr. Weinman for the Federal
11 Trade Commission.

12 MR. CARIS: Thank you.

13 Q (By Mr. Caris) Before we get into the specific
14 areas of questions that I wanted to cover today, I want to
15 go over the ground rules of the deposition so that you're
16 familiar with the process, Mr. Black. First of all, have
17 you ever had your deposition taken before?

18 A Yes.

19 Q About how many times?

20 A Twice, I believe.

21 Q And you're appearing today without counsel
22 today, correct?

23 A Correct.

24 Q When were you deposed?

25 A Last time?

1 at this point you're in agreement you'll read and review
2 the transcript and return it to me within 30 days signed
3 under penalty of perjury, agreed?

4 A Yes, I agree.

5 Q Again, thank you for your time today.

6 A Thank you.

7 MR. CARIS: And this concludes the
8 deposition.

9 (Deposition concluded at 4:50 p.m.)

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STATE OF UTAH)
) SS.
COUNTY OF WASHINGTON)

I, RORY JOHNSON, Certified Court Reporter,
Registered Professional Reporter and Notary Public for
the State of Utah, certify:

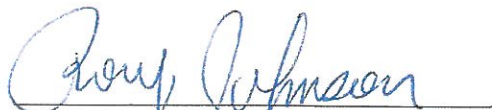
That the foregoing deposition of
ARVIN LEE BLACK, II, was taken before me pursuant to
Notice at the time and place therein set forth, at which
the witness was put on oath by me;

That the testimony of the witness and all
objections made at the time of the examination were
recorded stenographically by me and were thereafter
transcribed;

That the foregoing deposition is a true record
of the testimony and of all changes made by the witness
and of all objections made at the time of the
examination.

I further certify that I am neither counsel for
nor related to any party to said action nor in anywise
interested in the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name
and affixed my seal this 12th day of September, 2011.



RORY N. JOHNSON, RPR
Notary Public in and for
Washington County, State of Utah

My Commission Expires:
May 20, 2014

