

and Other Equitable Relief entered October 6, 2008 [Docket No. 12] ("the October 6 Order"); (2) Order for Entry of Preliminary Injunction, Appointment of Receiver and Other Equitable Relief entered on October 14, 2008 [Docket No. 43] ("the October 14 Order"); and (3) Amended Order for Entry of Preliminary Injunction, Appointment of Receiver, and other Equitable Relief entered on October 22, 2008 [Docket No. 70] ("the October 22 Order"). The Motion requests that the Court clarify (1) that both the October 6 Order and the October 14 Order were amended by the October 22 Order; (2) the individuals and entities whose assets are subject to the Receivership; (3) the Receiver's powers and duties to collect, receive, take, and otherwise manage the assets of Defendants and other persons or entities whose interests are held by or under the direction of Defendants; and (4) the Receiver's powers and duties regarding the filing of bankruptcy petitions to protect and preserve the assets of the entities subject to the Receivership.

Oral argument was held on December 5, 2008. In support of the Motion, Terrence Fleming and Steven Wolter appeared on behalf of the Receiver, and Robyn A. Millenacker and Gregory G. Brooker appeared on behalf of Plaintiff United States of America. Nagendra Setty appeared on behalf of LG Electronics, Inc. ("LGE"); Michelle S. Rhyu appeared on behalf of Zenith Electronics, LLC ("Zenith"); and Daniel C.

Beck appeared on behalf of Acorn Capital Group, LLC ("Acorn"), in opposition to the Motion. In addition, J. D. Jackson appeared on behalf of Interlachen Harriet Investments Ltd. ("Interlachen"). LGE, Zenith, Acorn, and Interlachen are not parties to this action.

Based on the memorandum submitted in support of the Motion and the oral argument heard on December 5, 2008, the Motion is granted and the October 6 Order, October 14 Order, and October 22 Order are hereby amended and restated as set forth below.

**SECOND AMENDED ORDER FOR ENTRY OF PRELIMINARY INJUNCTION,
APPOINTMENT OF RECEIVER, AND OTHER EQUITABLE RELIEF**

Pursuant to 18 U.S.C. § 1345 and Federal Rule of Civil Procedure 65, Plaintiff United States of America ("United States") filed a Complaint for Permanent Injunction and Other Equitable Relief and moved for an *ex parte* Temporary Restraining Order ("TRO"), Preliminary Injunction, and Other Equitable Relief. On October 3, 2008, the Court issued an *ex parte* TRO and an Order to Show Cause why a Preliminary Injunction should not be issued. The Court set a hearing on the United States' motion for October 10, 2008. On October 6, 2008, a Stipulation was entered by the United States and Defendants Petters Company, Inc. and Petters Group Worldwide, LLC, et al. The Court approved that Stipulation and appointed Douglas A. Kelley as receiver for those defendants and any affiliates, subsidiaries, divisions, successors, or assigns owned 100% or controlled by the foregoing but excluding: Thomas Petters, Inc. and its subsidiaries, including but not limited to: MN AIRLINES, LLC, dba Sun Country Airlines (collectively the "Initial Receiver Defendants"). The United States and Defendants Thomas Joseph Petters, Deanna Coleman, aka Deanna Munson, Robert White, James Wehmhoff, Larry Reynolds, and/or dba Nationwide International Resources, aka NIR, and Michael Catain, and/or dba Enchanted Family Buying Company, and any

affiliates, subsidiaries, divisions, successors, or assigns owned 100% or controlled by the foregoing, including but not limited to Thomas Petters, Inc. and its subsidiaries, including but not limited to: MN AIRLINES, LLC, dba Sun Country Airlines (collectively the "Subsequent Receiver Defendants") (hereinafter the Initial Receiver Defendants and the Subsequent Receiver Defendants are referred to collectively as "Defendants"¹), subsequently stipulated to the Entry of an Order for Preliminary Injunction, Order Appointing Receiver, and Other Equitable Relief. Both the October 6 Order and the October 14 Order were subsequently amended pursuant to the October 22 Order.

FINDINGS OF FACT

Based upon the Stipulation, and all the files, records, and proceedings in this matter, the Court makes the following Findings of Fact:

1. The Court has jurisdiction over the subject matter of this case and jurisdiction over the parties.
2. Venue lies properly with the Court.
3. Defendants have received the United States' Complaint for Permanent Injunction and Other Equitable Relief, dated October 2, 2008, and the Court's ex parte Temporary Restraining Order, dated October 3, 2008.

¹ Defendants include but are not limited to all those named in the case caption with the exception of Frank E. Vennes, Jr. and those entities listed as associated with Vennes in number 7 of the case caption.

Defendants have also received the United States' Amended Complaint, dated October 6, 2008.

4. There is probable cause to believe that certain Defendants have committed and were continuing to commit, prior to the Court's Temporary Restraining Order of October 3, 2008, mail fraud, wire fraud, and banking fraud in violation of Title 18 of the United States Code.

5. There is probable cause to believe that the amount traceable to certain of the Defendants' fraudulent activities is at this time \$3 billion.

6. There is probable cause to believe that immediate and irreparable harm will result from certain of the Defendants' ongoing violations of federal mail, wire, and banking fraud laws, absent entry of this Preliminary Injunction and Order.

7. The United States is likely to succeed on the merits of its Amended Complaint for Permanent Injunction and Other Equitable Relief.

8. Weighing the equities and considering the United States' likelihood of success in its cause of action, this Preliminary Injunction and Order is in the public interest.

9. No security is required of the United States for issuance of a Preliminary Injunction, pursuant to Federal Rule of Civil Procedure 65(c)

I. ASSET FREEZE

IT IS THEREFORE ORDERED that Defendants; their agents; including financial and banking institutions and other entities having possession or control of Defendants' assets; their officers; their employees; and all persons in active concert or participating with Defendants in their affairs are hereby restrained and enjoined:

A. from withdrawing or transferring up to and including \$3 billion that is on deposit with or held on Defendants' behalf by any financial or banking institution, broker-dealer, savings and loan, escrow agent, title company, commodity trading company, trust fund; or other financial agency, public or private, unless specifically authorized by Order of this Court; or being held by any other unrelated third-party or insider of Defendants.

B. from transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of, in any manner, assets in real or personal property, owned, gained, or acquired by Defendants up to and including \$3 billion, unless specifically authorized by Order of this Court; and

C. from opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of Defendants, or subject to access by Defendants or under their control, without providing the United States prior

notice and an opportunity to inspect the contents in order to determine that they contain no assets covered by this Preliminary Injunction, unless specifically authorized by Order of this Court.

IT IS FURTHER ORDERED that all assets of Defendants, including, but not limited to, real or personal property, accounts at any bank, savings and loan institution, broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, trust, or other financial institution of any kind, or being held by any other unrelated third-party or insider of Defendants, are deemed to be property of the Receivership and subject to the exclusive administration by the Receiver, as detailed in this Preliminary Injunction and Order.

IT IS FURTHER ORDERED that nothing in this Stipulation and Order shall limit any legal remedies available to the United States, including, but not limited to, seizing or restraining assets, or to pursue any of the assets subject to the terms of this Order in any criminal proceedings, civil or criminal forfeiture proceedings, or other actions brought on behalf of the United States.

**II. DUTIES OF THIRD PARTIES HOLDING DEFENDANTS'
ASSETS, INCLUDING FINANCIAL INSTITUTIONS**

IT IS FURTHER ORDERED that any financial or brokerage institution, bank, business entity, or person having possession, custody, or control of any account, safe deposit box, or any and all assets of any of the Defendants shall:

A. Hold and retain within its control and prohibit the transfer, encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale, or other disposal of any such account or other asset, except:

1. for transfers or withdrawals directed by the Receiver for those assets over which the Receiver has control pursuant to this Order or any Order of this Court;
or

2. by further Order of this Court;

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

C. Provide to the Receiver, appointed herein, within ten (10) business days of notice of this Preliminary Injunction and Order, a statement setting forth:

1. The identification of each account or asset, including real or personal property, titled in the name of any and all Defendants;

2. The balance of each account or a description of the nature and value of each asset under the name of any and all Defendants as hereinafter defined; and

3. The identification of any safe deposit box or storage facility that is either titled in the name of or subject to access by each of the Defendants.

D. Allow the Receiver immediate access to inspect or copy any records or other documentation pertaining to such account or asset owned or controlled by each of the Defendants, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. Any such financial institution, account custodian, or other aforementioned entity may arrange for the Receiver to obtain copies of any such records which the Receiver seeks, provided that such institution or custodian may charge a reasonable fee not to exceed twenty-five (25) cents per page copied;

E. At the direction of the Receiver, and without further order of this Court, convert, liquidate or sell any stocks, bonds, options, mutual funds, or other securities owned by each of the Defendants, so long as the proceeds thereof remain subject to the Receivership; and

F. Cooperate with all reasonable requests of the Receiver relating to implementation of this Preliminary Injunction and Order, including transferring funds at the Receiver's direction and producing records related to all accounts owned by each of the Defendants.

III. RECORDKEEPING AND BUSINESS OPERATIONS

IT IS THEREFORE ORDERED that Defendants; their agents, including financial and banking institutions and other persons or entities having possession or control of Defendants' assets; their officers; their employees; and all persons in active concert or participating with Defendants in their affairs must maintain all business, corporate, foundation, banking, financial, and/or accounting records in their possession that could be material to this cause of action; and are enjoined and restrained from:

A. Altering any business, corporate, foundation, banking, financial, and/or accounting records in their possession that could be material to this cause of action; and

B. Disposing of any business, corporate, foundation, banking, financial, and/or accounting records in their possession that could be material to this cause of action.

C. All Defendants shall provide to the Receiver, appointed herein, within ten (10) business days of notice of

this Preliminary Injunction and Order, a statement setting forth:

1. The identification of each account or asset, including real or personal property, titled in the name of any and all Defendants;

2. The balance of each account or a description of the nature and value of each asset under the name of any and all Defendants as hereinafter defined;

3. The identification of any safe deposit box or storage facility that is either titled in the name of or subject to access by each of the Defendants; and

4. The identification of each account or asset, including real or personal property, being held by any other unrelated third-party or insider of Defendants, including the balance or value of such asset(s).

IV. RECEIVERSHIP

A. APPOINTMENT OF A RECEIVER

IT IS FURTHER ORDERED that DOUGLAS A. KELLEY is appointed Receiver for Defendants with the full power of an equity Receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order and shall have judicial immunity. The Receiver shall be accountable directly to this Court and shall comply with any local rules of this Court governing receivers, as well as the Federal Rules of Civil Procedure. He is appointed Receiver for Defendants until such time as real or perceived conflicts arise, at which time he will consult the Court to determine how to proceed.

B. RECEIVERSHIP POWERS AND DUTIES

IT IS FURTHER ORDERED that the Receiver is directed and authorized and given all necessary powers to accomplish the following:

1. Take exclusive immediate custody, control, and possession of all the property, assets, and estates belonging to or in the possession, custody, or under the control of Defendants, wherever situated, except those assets seized by the United States pursuant to valid orders of a court. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, liquidate or sell and manage all assets of Defendants

and other persons or entities whose interests are now held by or under the direction, possession, custody, or control of Defendants;

2. The Receiver shall also assume control over all ongoing business operations in which Defendants have a controlling interest. With regard to these business operations, the Receiver shall:

a. Assume full and exclusive control of the operations of Defendants' removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, or agent of Defendants from control of, management of, or participation in, the business affairs of each of the Defendants;

b. Take all steps necessary or desirable to secure the business premises of Defendants. Such steps may include, but are not limited to, the following as the Receiver deems necessary or advisable: (a) completing a written inventory of all assets; (b) obtaining pertinent information from all employees and other agents and all accrued and unpaid commissions and compensation of each such employee or agent; (c) videotaping all portions of the above-referenced business locations; (d) securing the above-referenced business locations by changing the locks and disconnecting any computer modems or other means of access

to the computer or other records maintained at the locations;

c. Manage, administer, and conduct the operations of the ongoing legitimate business operations of Defendants, until further Order of this Court, by performing all incidental acts that the Receiver deems to be advisable or necessary; including but not limited to filing any bankruptcy petitions for any of the entities to protect and preserve the assets of any of the entities. Any bankruptcy cases so commenced by the Receiver shall during their pendency be governed by and administered pursuant to the requirements of the United States Bankruptcy Code, 11 U.S.C. section 101 *et seq.*, and the applicable Federal Rules of Bankruptcy Procedure. Notwithstanding the foregoing, any claims arising under federal laws relating to forfeiture and restitution (1) against or to recover assets of the bankruptcy estates of such bankruptcy cases, or (2) for distribution from such bankruptcy cases, are preserved and not affected in any way by this paragraph.

d. Choose, engage, and employ attorneys, accountants, appraisers, property managers, and other independent contractors and technical specialists or other professionals, with regard to the operations of Defendants, as the Receiver deems advisable or necessary in the

performance of duties and responsibilities under the authority granted by this Preliminary Injunction and Order;

3. Defend, compromise, or settle legal actions wherein the Receiver or any of the Defendants is a party commenced prior to or subsequent to this Order with the authorization of this Court. The Receiver may waive any attorney-client privilege held by any of the corporate or entity Defendants.

4. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of or exercising the authority granted by this Preliminary Injunction and Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by Defendants, including reasonable living expenses and/or attorneys fees, except payments that the Receiver deems necessary or advisable to secure assets or operations of each of the Defendants' ongoing business operations, which are found by the Receiver to be legitimate, including but not limited to rental payments, employee wages, critical vendors, etc.;

5. Maintain accurate records of all receipts and expenditures that the Receiver makes as the Receiver under this Order;

6. Coordinate with representatives of the United States Attorney's office and Court personnel as needed to

ensure that any assets subject to the terms of this Order are available for criminal restitution, forfeiture, or other legal remedies in proceedings commenced by or on behalf of the United States;

7. Share information regarding the assets under the Receiver's control and the management of those assets with the United States Attorney;

8. File a Status report every 60 days with the Court; and

9. The Receiver shall have the power and authority to perform any other act necessary or desirable to accomplish any of the foregoing.

C. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, corporations, subsidiaries, affiliates, successors, and assigns shall fully cooperate with and assist the Receiver.

D. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Preliminary Injunction and Order and for the cost of actual out-of-pocket expenses incurred by

them, from the assets now held by or in the possession or control of, or which may be received by, Defendants. The Receiver shall make efforts to draw payment from the assets of the different Defendants and their entities in proportion to the amount of time spent with regard to each. The Receiver shall file with the Court and serve on Defendants periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of this Preliminary Injunction and Order. Neither the Receiver nor his professionals shall increase the hourly rates used as the bases for such fee applications without twenty (20) days' prior notice filed with the Court.

E. RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$100,000 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts at the Court's direction.

V. STAY OF ACTIONS AGAINST DEFENDANTS

IT IS FURTHER ORDERED that, except by leave of this Court, during pendency of the receivership ordered herein, Defendants, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such persons (except the Receiver), are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or documents of Defendants, including but not limited to:

A. Petitioning, or assisting in the filing of a petition that would cause any Defendant to be placed in bankruptcy;

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against Defendants, including the issuance or employment of process against Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations;

C. Filing or enforcing any lien on any asset of Defendants, taking or attempting to take possession, custody, or control of any asset of Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of Defendants, whether such acts are

part of a judicial proceeding, are acts of self-help, or otherwise;

D. Initiating any other process or proceeding that would interfere with the Receiver's managing or taking custody, control or possession of the assets or documents subject to this Receivership,

Providing that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; (iii) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iv) participation by creditors or other interested parties in ongoing bankruptcy proceedings filed by the Receiver.

VI. JURISDICTION

IT IS FURTHER ORDERED:

(1) The Court shall retain exclusive jurisdiction of this matter for all purposes; and

(2) Civil discovery during the pendency of this Preliminary Injunction is stayed.

(3) Any and all actions that would interfere with the exclusive jurisdiction of this Court over the assets or

documents of Defendants are hereby enjoined as set forth in
Section V.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: December 8, 2008.