

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. 3:22-cv-487-TJC-MCR

MICHAEL RANDO, et al.,

Defendants.

\_\_\_\_\_ /

**DEFENDANTS' RESPONSE IN OPPOSITION  
TO THE RECIEVER'S MOTION TO COMPEL**

Defendants Michael and Valerie Rando (collectively the “Defendants” or the “Randos”) respectfully file this Response in Opposition to the Motion for Order to Require Compliance filed by the Temporary Receiver (the “Motion to Compel”) (Doc. 29). At issue in the Motion to Compel are two personal email accounts used occasionally for business purposes: mikesingles@gmail.com and val.10xlife@gmail.com (the “Email Accounts”). Defendants have not refused to provide access to these accounts and have not refused to produce any and all documents “pertaining to the Receivership Entities” contained therein. Defendants object only to the Temporary Receiver’s demand that they immediately relinquish all access to these accounts.

For the reasons discussed below, Defendants respectfully request that the Court deny the Motion to Compel and allow them to produce all documents in the Email Accounts “pertaining to the Receivership Entities” pursuant to an expedited discovery

request under section XXIV of the TRO, or at a minimum, allow them a reasonable time to disentangle their personal and business affairs before indefinitely ceding control over these accounts to the Temporary Receiver.

### **BACKGROUND**

1. On May 4, 2022, the Court entered an *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue (“TRO”) (Doc. 12).

2. Since the TRO was entered, the Defendants have expended significant time and effort to cooperate with the Temporary Receiver and comply with the TRO. They have provided, among other things, usernames and passwords to numerous email accounts, social media accounts, and other business-related accounts. They have done so as quickly as possible and without hesitation.<sup>1</sup> The Email Accounts are the sole exceptions.

---

<sup>1</sup> In her declaration the Temporary Receiver accuses the Randos of “fail[ing] to cooperate and abide by the terms of the TRO” because they informed her of the “Goats Payments” account “over two weeks after the entry of the TRO.” *See* Yip Dec. ¶ 10. This accusation completely ignores reality and the extraordinary burden imposed by the TRO. Although the TRO was entered by this Court on May 4, Defendants did not obtain counsel until several days later. Through counsel, Defendants immediately provided information to the Temporary Receiver and promptly responded to each and every request while simultaneously reviewing the voluminous pleadings, preparing for expedited depositions, and otherwise preparing to respond to the TRO (among numerous other things).

Moreover, the Receivership Entities were small businesses. They did not have an accounting department or an IT department that could assist with the numerous disclosures required by the TRO. The Randos spent days filling-out the detailed financial disclosures to the best of their ability given the extraordinarily short timeframe—all while trying to maintain a normal home life for their four children. Under the circumstances, the fact that the Temporary Receiver can only identify a single account disclosed more than a week after the TRO is remarkable.

With respect to the Goat Payments platform specifically, Defendants assumed the Temporary Receiver was aware of its existence because the TRO froze all bank accounts tied to this platform—

3. Mikesingles@gmail.com was opened by Michael Rando in or about 2008. It has been Mr. Rando's primary personal email account since then. It is the only email account he uses for personal communications and is the only email account he has not ceded to the Temporary Receiver. He has also used it occasionally for business purposes over the years, including to monitor various business accounts relating to the Receivership Entities. *See* Declaration of Michael Rando, attached hereto as Exhibit 1.

4. Val.10xlife@gmail.com was opened by Valerie Rando in or about November 2020. It has been used since then primarily as a personal email account and for a business unrelated to the Receivership Entities. She has also used it occasionally for business purposes relating to the Receivership Entities, including to monitor various business accounts. *See* Declaration of Valerie Rando, attached hereto as Exhibit 2.

5. The Email Accounts are still used by the Randos today to communicate with medical professionals about ongoing care, with daycares, schools, nannies, friends, family, to pay bills and monitor personal loans and bank accounts, and as logins or recovery emails for various websites including personal social media, bank accounts, credit monitoring and other personal accounts unrelated to the Receivership Entities. Michael Rando Dec., at ¶ 4 Valerie Rando Dec., at ¶ 4.

---

accounts that were also immediately disclosed by the Defendants. They brought it to her attention out of concern for the large number of credit chargebacks occurring as a result of the TRO. Defendants had no reason to withhold that information because they personally guarantee that account and their personal credit is being affected as a result.

6. Defendants do not dispute that the Email Accounts have also been used for purposes relating to the Receivership Entities. Both accounts are used, for example, as login usernames or recovery email addresses for payment platforms, website hosting platforms, and social media accounts. *See e.g.*, Motion to Compel at 5.

7. In recognition of the dual-purpose of the Email Accounts, and to avoid Court intervention, Defendants agreed to everything short of ceding immediate and sole control over the accounts to the Temporary Receiver. They have agreed to produce all documents and communications in the Email Accounts “pertaining to the Receivership Entities,” to provide a complete forensic image of the accounts, and even to share access to these accounts with the Temporary Receiver while the business and personal affairs are disentangled.

8. The Temporary Receiver has refused these requests and insisted only on taking-over the Email Accounts immediately and barring the Randos from all ongoing access. *See* May 19, 2022, email correspondence between counsel for Defendants and counsel for the Temporary Receiver, attached hereto as Exhibit 3 (“[t]he Randos can easily get a new personal email address” and “[t]here will be no shared access.”).

### **ARGUMENT**

“The district court has broad powers and wide discretion to determine relief in an equity receivership.” *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (citations omitted). “This discretion derives from the inherent powers of an equity court to

fashion relief.” *Id.* (citation omitted). That discretion includes the ability to limit the Temporary Receiver’s access to the Email Accounts at issue here.

The TRO does not distinguish between personal email accounts and business email accounts – it focusses on documents and assets “of or pertaining to the Receivership Entities.” *See* TRO at ¶ XV. It contains two separate procedures through which the Temporary Receiver can acquire such documents or assets, (1) Section XV which provides for the immediate transfer of “[a]ll Documents of or pertaining to the Receivership Entities” and “[a]ll keys, codes, user names and passwords necessary to gain or secure access” to any such documents, and (2) Section XXIV of the TRO which provides the Plaintiff and Temporary Receiver with “expedited discovery” including the ability to serve requests for production or inspection of documents upon parties.

Defendants have not refused to comply with either of these provisions. They have offered (and continue to offer) to review and produce all documents in the Email Accounts that pertain to the Receivership Entities,<sup>2</sup> and to provide a complete forensic image of the Email Accounts. Defendants have also offered to provide the passwords to allow the Temporary Receiver to access these Email Accounts while the business and personal affairs are disentangled. *See* Exhibit 3.

The Temporary Receiver is demanding more than the TRO allows: to prohibit the Randos from accessing these personal email accounts immediately and

---

<sup>2</sup> Defendants contend that this is the most efficient method to accomplish the goals of the TRO. They are in the best position to distinguish between personal and business communications, and in the best position to efficiently identify and log the numerous privileged communications likely to be included in the Email Accounts.

indefinitely. *Id.* The Motion to Compel offers no justification for that demand. There is no suggestion that Defendants are using the Email Accounts to conduct business, to undermine the Court or the TRO, or that any documents and communications are not being preserved. The concerns expressed by the Temporary Receiver can be resolved without indefinitely removing the Randos' access to the Email Accounts.

### CONCLUSION

This case is still in its infancy. The Temporary Receiver is operating pursuant to an *ex parte* order, yet seeking relief that cannot be undone, i.e., to take-over email accounts that have been used for personal reasons for years and are used today to manage the Defendants' personal affairs. The concerns expressed by the Temporary Receiver can be addressed through less restrictive means already proposed by the Defendants.

WHEREFORE, Defendants respectfully request that the Court deny the Motion to Compel and allow the Defendants to produce all documents in the Email Accounts "pertaining to the Receivership Entities" pursuant to an expedited discovery request under section XXIV of the TRO, or at a minimum, allow them a reasonable time to disentangle their personal and business affairs before ceding control over these accounts to the Receiver.

Respectfully submitted,

/s/ Nathan W. Hill

Michael R. Freed

Florida Bar No. 797529

mfreed@gunster.com

Latour "LT" Lafferty  
Florida Bar No. 975575  
llafferty@gunster.com  
Nathan W. Hill  
Florida Bar No. 91473  
Nhill@gunster.com  
**GUNSTER, YOAKLEY & STEWART**  
1 Independent Drive, Suite 2300  
Jacksonville, FL 32202  
(904) 354-1980  
*Counsel for Defendants, Michael Rando,  
Valerie Rando, Prosperity Training Tech.,  
LLC, Digital Business Scaling, LLC, First  
Coast Matchmakers, Inc., First Coast  
Matchmakers, LLC, and Financial  
Consulting Management Group, LLC.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing document was furnished by electronic mail to all counsel of record on this 24th day of May, 2022.

By: /s/Nathan W. Hill

**EXHIBIT 1**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. 3:22-cv-487-TJC-MCR

MICHAEL RANDO, et al.,

Defendants.

**DECLARATION OF MICHAEL RANDO IN SUPPORT OF DEFENDANTS'  
RESPONSE IN OPPOSITION TO THE RECIEVER'S MOTION TO COMPEL**

I, Michael Rando, do declare as follows:

1. My name is Michael Rando. I am a Defendant in the above-entitled case. I am over the age of 18. The matters set forth below are based on my own personal knowledge.
2. I created the Mikesingles@gmail.com email account (the "Email Account") in or about 2008. Since that time, it has been used primarily as a personal email account and it is my sole personal email account today. It contains thousands of personal emails including communications with my wife, doctors, personal attorneys, family, friends, and numerous other communications about my and my family's personal affairs and finances.
3. Over the years I have occasionally used the Email Account for business purposes, including to monitor various business accounts relating to the Receivership

## EXHIBIT 1

Entities in the above action and other business ventures pre-dating the Receivership Entities.

4. I use the Email Account today to communicate with medical professionals about ongoing care, with daycares, schools, nannies, friends, family, to pay bills and monitor personal loans and bank accounts, and as a login or recovery email for various websites including personal social media, bank accounts, credit monitoring and other personal accounts unrelated to the Receivership Entities.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 24 day of May, 2022.

  
\_\_\_\_\_  
Michael Rando

**EXHIBIT 2**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. 3:22-cv-487-TJC-MCR

MICHAEL RANDO, et al.,

Defendants.

**DECLARATION OF VALERIE RANDO IN SUPPORT OF DEFENDANTS'  
RESPONSE IN OPPOSITION TO THE RECIEVER'S MOTION TO COMPEL**

I, Valerie Rando, do declare as follows:

1. My name is Valerie Rando. I am a Defendant in the above-entitled case. I am over the age of 18. The matters set forth below are based on my own personal knowledge.

2. I created the Val.10xlife@gmail.com email account (the "Email Account") in or about November 2020. Since that time, I have used it primarily as a personal email account and for a business unrelated to the Receivership Entities. It contains numerous personal emails including communications with my husband, doctors, personal attorneys, family, friends, and other communications about my and my family's personal affairs.

3. Since it was opened, I have occasionally used the Email Account for business purposes, including to monitor various business accounts relating to the Receivership

## EXHIBIT 2

Entities in the above action and for other business ventures unrelated to the Receivership Entities.

4. I use the Email Account today to communicate with medical professionals about ongoing care, with daycares, schools, nannies, friends, family, to pay bills and monitor personal loans and bank accounts, and as a login or recovery email for various websites including personal social media, bank accounts, credit monitoring and other personal accounts unrelated to the Receivership Entities.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 24 day of May, 2022.

  
\_\_\_\_\_  
Valerie Rando

**From:** [Kacy Donlon](#)  
**To:** [Hill, Nathan](#)  
**Cc:** [Freed, Michael](#) [REDACTED]  
**Subject:** RE: Rando Email Accounts  
**Date:** Thursday, May 19, 2022 3:05:05 PM  
**Attachments:** [image001.png](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.jpg](#)

---

We need control over these accounts today. There will be no shared access. Your clients have had control over these accounts the last two weeks despite our repeated requests. To the extent your clients need to use these email address accounts to validate anything for dual authentication purposes, [REDACTED] can make himself available to do that. EHounds will segregate those emails prior to May 4, 2017. 2019 is off the table. Also, EHounds will segregate those emails to/from the attorneys that you've mentioned. We will have to determine how those attorney client emails will ultimately be reviewed. If we don't have full access/control over these two email addresses by close of business (5:00 pm eastern), we will file a Notice of Non-Compliance with the Court.

**KATHERINE C. "KACY" DONLON**  
**PARTNER | Johnson, Cassidy, Newlon & DeCort**



**Direct:** [813.291.3300](tel:813.291.3300)  
**Cell:** [813.494.6806](tel:813.494.6806)  
**Fax:** [813.235.0462](tel:813.235.0462)  
**Email:** [kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)  
**Address:** 2802 N. Howard Ave • Tampa, FL 33607

[Website](#) | [Bio](#) | [vCard](#)

---

**From:** Hill, Nathan <NHill@gunster.com>  
**Sent:** Thursday, May 19, 2022 1:34 PM  
**To:** Kacy Donlon <kdonlon@jclaw.com>  
**Cc:** Freed, Michael <MFreed@gunster.com>; [REDACTED]  
**Subject:** RE: Rando Email Accounts

Thanks Kacy,

It seems to us that this is exactly the sort of thing the Court meant when it admonished the Receiver to exercise her authority "judiciously" and to act appropriately in interactions with the Defendants. A mixed business and personal email account is neither unusual nor nefarious. The Mikesingles accounts specifically has been used by Mr. Rando for various purposes over the course of more than

10 years. It is his only active account and used for a variety of non-business purposes. Val10xlife is similarly used for the ongoing personal affairs of Ms. Rando. We have offered to provide the receiver everything short of unilateral control over these two accounts.

In an effort to avoid involving the Court, we would be willing to agree to turn over full control of both accounts, so long as the Clients are permitted some reasonable time period (during which we can share access) to disentangle these accounts from their ongoing personal affairs. This is also subject to your prior agreement to segregate emails prior to 2019 in the Mike Singles account.

If this is agreeable to you, please let me know and I will provide the access information to Robert immediately.

**Nathan W. Hill** | Shareholder  
407.406.5246 [nhill@gunster.com](mailto:nhill@gunster.com)



---

**From:** Kacy Donlon <[kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)>  
**Sent:** Thursday, May 19, 2022 11:50 AM  
**To:** Hill, Nathan <[NHill@gunster.com](mailto:NHill@gunster.com)>  
**Cc:** Freed, Michael <[MFreed@gunster.com](mailto:MFreed@gunster.com)>  
**Subject:** RE: Rando Email Accounts

I've spoken to the Receiver and I was incorrect in my earlier comments. She does want access and control over those email accounts. There is no question that these accounts are tied to the Receiver's business. By mixing their personal and business in that email address, they did so at their own peril. The TRO is clear that the Defendants need to provide this information to the Receiver:



The Randos can easily get a new personal email address. Please provide access to these accounts to [REDACTED] this afternoon.

**KATHERINE C. "KACY" DONLON**

**PARTNER | Johnson, Cassidy, Newlon & DeCort**



**Direct:** [813.291.3300](tel:813.291.3300)

**Cell:** [813.494.6806](tel:813.494.6806)

**Fax:** [813.235.0462](tel:813.235.0462)

**Email:** [kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)

**Address:** 2802 N. Howard Ave • Tampa, FL 33607

[Website](#) | [Bio](#) | [vCard](#)

---

**From:** Hill, Nathan <[NHill@gunster.com](mailto:NHill@gunster.com)>  
**Sent:** Thursday, May 19, 2022 11:20 AM  
**To:** Kacy Donlon <[kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)>  
**Cc:** Freed, Michael <[MFreed@gunster.com](mailto:MFreed@gunster.com)>  
**Subject:** RE: Rando Email Accounts

Hi Kacy, Just to confirm (subject, as you mentioned, to your confirmation with the Receiver) we will provide the log-in information for the below accounts to Robert for imaging and as necessary to provide access to any business accounts or devices that use these emails for dual-authentication purposes. We will work with you to disentangle these accounts from all business dealings so that they can continue to use them for personal communications going forward.

Our understanding is that you will not change the passwords (i.e., take over the accounts) and that you will not be actively monitoring their communications.

**Nathan W. Hill** | Shareholder  
407.406.5246 [nhill@gunster.com](mailto:nhill@gunster.com)



---

**From:** Kacy Donlon <[kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)>  
**Sent:** Thursday, May 19, 2022 9:52 AM  
**To:** Hill, Nathan <[NHill@gunster.com](mailto:NHill@gunster.com)>  
**Cc:** Freed, Michael <[MFreed@gunster.com](mailto:MFreed@gunster.com)>  
**Subject:** Email Accounts

Nathan & Mike –

It is clear from the attached document that the [mikesingles@gmail.com](mailto:mikesingles@gmail.com) and [val.10xlife@gmail.com](mailto:val.10xlife@gmail.com) were used for business purposes. If you do not provide us with the passwords and access to these accounts this morning, we will have no choice but to file a Notice of Non-Compliance with the Court. It is my understanding that you have a call with [REDACTED] this morning which would be the perfect opportunity to provide this information. If you disagree, please let me know ASAP.

**KATHERINE C. "KACY" DONLON**

**PARTNER | Johnson, Cassidy, Newlon & DeCort**



**Direct:** [813.291.3300](tel:813.291.3300)

**Cell:** [813.494.6806](tel:813.494.6806)

**Fax:** [813.235.0462](tel:813.235.0462)

**Email:** [kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)

**Address:** 2802 N. Howard Ave • Tampa, FL 33607

[Website](#) | [Bio](#) | [vCard](#)