

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' MOTION TO MODIFY ASSET FREEZE TO PERMIT
PAYMENT OF ATTORNEYS' FEES**

Defendants Michael Rando, Valerie Rando, Prosperity Training Technology, LLC, Digital Business Scalling, LLC, First Coast Matchmakers, Inc., First Coast Matchmakers, LLC, and Financial Consulting Management Group, LLL (hereinafter "the Rando Defendants"), by and through undersigned counsel, and respectfully requests the Court modify the asset freeze in the Temporary Restraining Order ("TRO") to release \$225,000 to pay attorneys' fees through the date of the hearing scheduled for June 17, 2022. In support hereof, the Rando Defendants would show as follows:

1. The Court entered an *ex parte* Temporary Restraining Order ("TRO") against all Defendants on May 3, 2022. (Doc. 12). The Rando Defendants retained the undersigned counsel on Friday, May 6, 2022.

2. Section IV of The TRO contains a comprehensive asset freeze proscribing *inter alia* the Rando Defendants use of all their bank account assets; however, the asset freeze contains a provision allowing the Rando Defendants to retain counsel to represent them in this action.

4. The Rando Defendants respectfully request the Court modify the asset freeze provision in Section IV of the TRO to permit the Rando Defendants to pay the undersigned counsel reasonable attorneys' fees through the date of the hearing on June 17, 2022. Attached hereto as Exhibit 1 is a redacted invoice reflecting attorneys' fees incurred through June 6, 2022.

9. Undersigned counsel are not seeking reimbursement for costs and will discount the total fee amount in the attached invoice, and other fees until the hearing on the Preliminary Injunction, by 10%.

10. In addition to the amount of the current invoice, and to avoid the necessity of returning to the Court for additional fees prior to the hearing, Defendants' respectfully request that the Court modify the asset freeze to release \$225,000 to trust account of the Rando Defendants' counsel to pay attorney's fees currently due plus an estimate of the fees likely to be incurred through the June 17, 2022 hearing.

MEMORANDUM OF LAW

For the above-stated reasons, the Rando Defendants respectfully submit to the Court that there is good cause for the requested relief. Undersigned counsel has diligently worked to effectively represent the Rando Defendants in an extremely fluid and emergent case with extensive business and personal prohibitions, duties, financial disclosures, accountings, productions, record preservations, service obligations as well as extensive obligations with respect to cooperating with the Receiver regarding business activities. Counsel for the Rando Defendants have also worked diligently to review the voluminous pleadings and exhibits in preparation of the Rando Defendants' defense to the Plaintiff's allegations.

In addition, the Court's TRO permits expedited discovery and the parties have been engaged in consistent discussions and discovery including depositions and documentary productions. The undersigned counsel has diligently assisted the Rando Defendants in expeditiously and diligently complying with these requirements and have done so in a good faith understanding and expectation pursuant to the TRO that the Rando Defendants are entitled to access frozen assets for the purpose of retaining and pay counsel reasonable attorneys' fees, costs and expenses necessarily incurred in fluid and emergent circumstances. Accordingly, the Rando Defendants respectfully submit that there is good cause to grant this Motion.

WHEREAS the Rando Defendants respectfully request that the Court grant this Motion and modify the asset freeze to permit a payment to the trust account of the undersigned law firm in the amount of \$225,000 from the Fifth Third account ending XXXXX1169, and order that \$225,000 shall no longer be frozen and may be applied to attorneys' fees incurred on behalf of the Rando Defendants, and that the disbursement of those funds shall not be deemed a violation of this Court's May 4, 2022 Temporary Restraining Order and Asset Freeze, and such further relief the Court deems appropriate.

LOCAL RULE 3.01(g) CERTIFICATE OF CONFERRAL

I certify that, on June 8, 2022 and June 14, 2022, counsel for the Rando Defendants conferred with counsel for Plaintiff and the Receiver. Counsel for the Plaintiff indicated that the Plaintiff opposes this Motion. Counsel for the Receiver indicated that the Receiver opposes this Motion as well.

**GUNSTER, YOAKLEY &
STEWART, P.A.**

By: /s/Michael R. Freed
Michael R. Freed
Florida Bar No. 69205
1 Independent Drive, Suite 2300
Jacksonville, FL 32202
mfreed@gunster.com
L.T. Lafferty
Florida Bar No. 975575
401 East Jackson Street, Suite 2500
Tampa, FL 33602
ltlafferty@gunster.com
Nathan W. Hill

Florida Bar No. 91473
200 South Orange Ave, Suite 1400
Orlando, Florida 32801
nhill@gunster.com
Jonathan K. Osborne
Florida Bar No. 95693
josborne@gunster.com
Samantha V. Medina
Florida Bar No. 1030933
smedina@gunster.com
450 East Las Olas Boulevard, Suite
1400
Fort Lauderdale, Florida 33301
Telephone: (954) 462-2000
Facsimile: (954) 523-1722

Attorneys for Defendants

CERTIFICATE OF SERVICE

I CERTIFY that on June 14, 2022, a copy of this document was filed with the Clerk of Court via the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

By: /s/Michael R. Freed

Exhibit 1



777 South Flagler Drive, Suite 500
West Palm Beach, Florida 33401
Phone (561) 655-1980
Fax No. (561) 655-5677
Taxpayer ID No.

June 8, 2022

Mike Rando, Valerie Rando, Prosperity Training
Technology, LLC, et al.
3556 Highland Glen Way West
Jacksonville, FL 32224

Please remit with payment

Invoice for Professional Services

Client Name: Mike Rando, Valerie Rando, Prosperity Training Technology, LLC, et al.
Matter Name: Temporary Restraining Order with Asset Freeze Issued in Federal Trade Commission v. Rando, et al, No. 3:22-cv-487-TJC-MCR

Invoice Date: June 8, 2022

For Legal Services Rendered Through June 6, 2022

Total Fees Due \$183,265.50



Mike Rando, Valerie Rando, Prosperity Training Technology
et al.

Temporary Restraining Order with Asset Freeze Issued in Federal
Trade Commission v. Rando, et al, No. 3:22-cv-487-TJC-MC

Invoice Date: June 8, 2022

FEE SUMMARY OF PROFESSIONAL SERVICES RENDERED

<u>Professional</u>	<u>Hours Worked</u>	<u>Billed Per Hour</u>	<u>Bill Amount</u>
Englund, Ashley J.	31.00	\$330.00	10,230.00
Freed, Michael	68.10	\$625.00	42,562.50
Giboney, Pierce	7.70	\$375.00	2,887.50
Hill, Nathan W.	85.90	\$550.00	47,245.00
Lacross, Denise L.	3.40	\$320.00	1,088.00
Lafferty, Latour LT	63.10	\$685.00	43,223.50
Maturo, Rebecca A.	2.80	\$325.00	910.00
Medina, Samantha V.	22.70	\$330.00	7,491.00
Osborne, Jonathan K.	46.60	\$575.00	26,795.00
Owens, Frederick E.	0.50	\$490.00	245.00
De Armas, Roxann R.	1.40	\$175.00	245.00
Wiggins, Logan T.	0.70	\$490.00	343.00
Total all Professionals	333.90	\$548.86	\$183,265.50