

**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.

**RECEIVER'S NOTICE OF FILING ALTERNATIVE PROPOSED
ORDERS**

Comes now, Maria M. Yip, the Court-appointed Receiver (the "Receiver") over the corporate Defendants (the "Receivership Entities"¹), pursuant to the Court's Order dated October 6, 2022 (Doc. 103), and files the attached Proposed Orders providing payment instructions for the payment of the fees granted in the Court's Order. As directed, the Receiver consulted with all parties regarding the form of the proposed Order and the parties could not come to an agreement as it related to the payment of Gunster's fees.

¹ The Receivership Entities include Prosperity Training Technology LLC, Elite Customer Services, LLC, Digital Business Scaling LLC, First Coast Matchmakers Inc., First Coast Matchmakers LLC, Financial Consulting Management Group LLC and Resource Management Investments, LLC.

The FTC proposes that the Rando Defendants pay their attorneys' fees from their investment accounts with Retail Ecommerce Ventures LLC. Under the proposed settlement between the Rando Defendants and the FTC, the Rando Defendants would retain certain assets, including their interest in Retail Ecommerce Ventures LLC ("REV"), and turnover other assets, including Michael Rando's Fifth Third Account ending in x1169, to the FTC and the Receiver for consumer redress. Requiring the Rando Defendants to pay their attorneys' fees out of their share of the proposed settlement will maximize the chances of obtaining Commission approval for the proposed settlement. Paying the Rando Defendants' significant attorneys' fees out of the share reserved for consumer redress will make it less likely for undersigned FTC counsel to successfully persuade the layers of management necessary to ultimately obtain Commission approval. At a minimum, undersigned FTC counsel must report back to their immediate management to re-evaluate the proposed settlement if more than 50% of the \$150,000 in fees approved by the Court are paid from the consumers' share.

In light of the Court's Order encouraging the parties to resolve this fee dispute, the FTC had offered to have 50% of the approved fees paid from the account x1169 which the Rando Defendants will turnover under the proposed settlement, and the other 50% paid from assets that the Rando Defendants will

retain.² Unfortunately, the Rando Defendants rejected the compromise offer. Accordingly, the FTC requests the Court to modify the asset freeze to allow the Rando Defendants to pay the entirety of the Court-approved \$150,000 in attorneys' fees from their interests in Retail Ecommerce Ventures LLC. *See* Exhibit 1.

The Rando Defendants propose that the attorneys' fees should be paid entirely out of the Receivership Assets, and specifically, the x1169 account. These fees include fees incurred by the Receivership Entities and should be borne out of the Receivership estate, not the limited assets that the FTC is permitting the individual Rando Defendants to retain. *See* Exhibit 2.

In conclusion, Exhibit 1 adopts the FTC's position that the Randos' fees should be paid from the REV distributions. Exhibit 2 adopts the Randos' position that Gunster's fees should be paid from the proceeds of the Fifth Third account as distributed to the Receivership account. Exhibit 3 is a compromise proposal wherein 50% of Gunster's fees are paid from REV distributions and the other 50% paid from the Receivership account.

² Should the Court wish to adopt this compromise position, the Receiver submits an alternative Proposed Order as Exhibit 3.

/s/ Katherine C. Donlon

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Attorneys for Receiver Maria M. Yip

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 2022, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court through the CM/ECF system, which served counsel of record.

/s/ Katherine C. Donlon

EXHIBIT 1

**UNITED STATES DISTRICT COURT
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Defendants.

ORDER

On October 6, 2022, the Court issued the following rulings (Doc. 103):

- The Receiver's First Fee Application (Doc. 67) and Second Fee Application (Doc. 100) are **GRANTED in part**, allowing for the modification of the Asset Freeze to the extent necessary for an interim payment of \$150,000 to the Receiver;
- Elite Customer Services, LLC and Resource Management Investments, LLC's Motion to Modify Asset Freeze to Permit Payment of Attorney's Fees (Doc. 90) was **GRANTED**, allowing for the one-time payment of fees in the amount of \$27,316 to Abel Bean Law, P.A.; and
- Defendants' Cumulative Motion to Modify Asset Freeze to Permit Payment of Attorney's Fees (Doc. 99) was **GRANTED in part**,

allowing for the modification of the Asset Freeze for an interim payment of \$150,000 to Gunster, Yoakley & Steward, P.A. (“Gunster”).

In order to fund these payments, the Court hereby modifies the Asset Freeze and directs the following payments:

1. Cardone Capital is ordered to distribute all accrued and future distributions in the name of MR Protection Trust to Receiver Maria Yip;

2. Retail Ecommerce Ventures, LLC is ordered to distribute \$150,000 from accrued distributions held in the name of Michael Rando to Gunster;

3. Fifth Third is directed to close out the account ending in xxx1169, in the name of the MR Protection Trust, as well as the account ending in xxx8167, in the name of Elite Customer Services, and send the proceeds from those accounts to Receiver Maria Yip; and

4. The Receiver is directed to pay \$27,316 to Abel Bean from her Receivership Account. The interim payment to the Receiver and her team will likewise be made from the Receiver’s account.

DONE AND ORDERED in Jacksonville, Florida the ___ day of October, 2022.

TIMOTHY J. CORRIGAN
United States District Judge

Copies:
Counsel of Record

EXHIBIT 2

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

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allowing for the modification of the Asset Freeze for an interim payment of \$150,000 to Gunster, Yoakley & Steward, P.A. (“Gunster”).

In order to fund these payments, the Court hereby modifies the Asset Freeze and directs the following payments:

1. Cardone Capital is ordered to distribute all accrued and future distributions in the name of MR Protection Trust to Receiver Maria Yip;

2. Fifth Third is directed to close out the account ending in xxx1169, in the name of the MR Protection Trust, as well as the account ending in xxx8167, in the name of Elite Customer Services, and send the proceeds from those accounts to Receiver Maria Yip; and

3. The Receiver is directed to make the above-referenced payments to Abel Bean and Gunster from her Receivership Account. The interim payment to the Receiver and her team will likewise be made from the Receiver’s account.

DONE AND ORDERED in Jacksonville, Florida the ___ day of October, 2022.

TIMOTHY J. CORRIGAN
United States District Judge

Copies:
Counsel of Record

EXHIBIT 3

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

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- Defendants' Cumulative Motion to Modify Asset Freeze to Permit Payment of Attorney's Fees (Doc. 99) was **GRANTED in part**,

allowing for the modification of the Asset Freeze for an interim payment of \$150,000 to Gunster, Yoakley & Steward, P.A. (“Gunster”).

In order to fund these payments, the Court hereby modifies the Asset Freeze and directs the following payments:

1. Cardone Capital is ordered to distribute all accrued and future distributions in the name of MR Protection Trust to Receiver Maria Yip;

2. Retail Ecommerce Ventures, LLC is ordered to distribute \$75,000 from accrued distributions held in the name of Michael Rando to Gunster;

3. Fifth Third is directed to close out the account ending in xxx1169, in the name of the MR Protection Trust, as well as the account ending in xxx8167, in the name of Elite Customer Services, and send the proceeds from those accounts to Receiver Maria Yip; and

4. The Receiver is directed to pay \$75,000 to Gunster and \$27,316 to Abel Bean from her Receivership Account. The interim payment to the Receiver and her team will likewise be made from the Receiver’s account.

DONE AND ORDERED in Jacksonville, Florida the ___ day of October, 2022.

TIMOTHY J. CORRIGAN
United States District Judge

Copies:
Counsel of Record