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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 Federal Trade Commission,

No. 2:18-CV-02221-SPL

11 Plaintiff,

**RECEIVER’S SECOND AMENDED¹
MOTION TO ABANDON LEASED
OFFICE PREMISES**

12 v.

13 Hite Media Group, LLC, et al.,

14 Defendants.
15

16 Pursuant to Sections XIV(C), (G), (I), and (S) of this Court’s *Ex Parte Temporary*
17 *Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other*
18 *Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not*
19 *Issue* (Dkt. No. 14) (the “**TRO**”), *Preliminary Injunction with Asset Freeze, Appointment*
20 *of a Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why a*
21 *Preliminary Injunction Should Not Issue* (Dkt. No. 27) (the “**Injunction**”), and *Stipulated*
22 *Preliminary Injunction with Asset Freeze, Appointment of a Temporary Receiver, and*
23 *Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should*
24 *Not Issue* entered on July 31, 2018 (Dkt. No. 28) (the “**Stipulated Injunction**”), Stephen
25 Donell, the duly appointed Receiver in this case (the “**Receiver**”), moves the Court for
26 authority to reject and abandon the leased office premises located at 14040 N. Cave Creek
27

28 ¹ This amendment is to correct paragraph 9 below.

1 Road, Suite 205, Phoenix, Arizona 85022 (the “**Premises**”), effective upon the earlier of
2 entry of an order granting this Motion or September 30, 2018. The Receiver also requests
3 the return of any security deposit with respect to the Premises. The Premises are currently
4 vacant, serve no business purpose, and are an ongoing and unnecessary expense to the
5 receivership estate.

6 This Motion is supported by the following Memorandum of Points and Authorities
7 and all prior papers and leadings filed in case, which are incorporated herein by reference.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I. Factual Background**

10 1. On or about February 27, 2018, the Federal Trade Commission (the “**FTC**”)
11 initiated this case (the “**Action**”) against Hite Media Group, LLC, Premium Business
12 Solutions, LLC, Premium Domain Services, LLC, 2 Unique, LLC, Amazing App, LLC,
13 Michael Ford Hilliard, Michael De Rosa, Shawn Stumbo, Tiffany Hoffman, and Jeremy
14 Silvers (collectively, the “**Defendants**”).

15 2. On July 17, 2018, the Court entered the TRO appointing Stephen Donell, as
16 the Receiver on a temporary basis in this Action, to, among other things, take control of
17 and recover Defendants’ assets and documents, investigate the Defendants’ business, and
18 secure the Premises.

19 3. At the time the Court entered the TRO, Defendants leased offices at the
20 Premises whereat they conducted their business. Defendants lease the premises from
21 Paradise Tower, LLC, f/k/a Sanctuary of Mesa, LLC (the “**Landlord**”).

22 4. On July 24, 2018, a copy of the TRO was recorded in Maricopa County,
23 Arizona.

24 5. On July 31, 2018, the Court entered the Injunction and Stipulated Injunction
25 affirming the Receiver’s appointment and duties.

26 6. After conducting an initial investigation, the Receiver determined that the
27 entirety of Defendants’ business is built on defrauding consumers and, therefore, must be
28 shut down.

1 7. On August 24, 2018, the Receiver boxed up all of the personal property,
2 including computers, hard drives, and business records, at the Premises, and is in the
3 process of transferring the personal property to storage in California.

4 8. Given that Defendants' business is no longer operational and cannot be
5 salvaged, there is no use for the Premises.

6 9. The Premises are currently vacant, yet, rent continues to accrue and
7 potentially be a claim against the receivership estate. Upon the receipt of rental invoices
8 from the Landlord, the Receiver intends to pay the base rent accrued from the date the
9 Receiver was appointed through entry of an order granting this Motion or September 30,
10 2018.²

11 **II. Receiver's Authority to Reject and Abandon the Property**

12 The TRO, Injunction, and Stipulated Injunction bestow on the Receiver broad-
13 ranging powers with respect to securing the Premises and ultimately rejecting the lease on
14 the Premises as a burdensome and needless expense to the receivership estate.

15 First, the Receiver has a duty to secure the Premises. TRO, Injunction, and
16 Stipulated Injunction, § XIV(G) (authorizing the Receiver to "[t]ake all steps necessary to
17 secure and take exclusive custody of each location from which the Receivership Entities
18 operate their businesses"). The Receiver determined that Defendants' business could not
19 be operated legally and profitably, and thus, has shut down operations completely. TRO,
20 Injunction, and Stipulated Injunction, § XIV(G) (authorizing the Receiver to "[s]uspend
21 business operations of the Receivership Entities if in the judgment of the Receiver such
22 operations cannot be continued legally and profitably"). Given that the business is no
23 longer operating, on August 24, 2018, the Receiver removed all of the personal property
24 from the Premises. The Premises is now vacant, and the most prudent and cost-effective
25 way for the Receiver to secure the Premises at this point is to turn over the leased offices
26 to the Landlord.

27 _____
28 ² The Receiver believes rent accrued post-receivership may be paid as an administrative expense of the receivership estate.

1 Second, the Receiver has the power to terminate the lease for the Premises. TRO,
2 Injunction, and Stipulated Injunction, § XIV(I) (authorizing the Receiver to “[e]nter into
3 and cancel contracts and purchase insurance as advisable or necessary”). The Receiver
4 also has the responsibility to prevent the loss of funds for the receivership estate. TRO,
5 Injunction, and Stipulated Injunction, § XIV(C) (authorizing the Receiver to “[c]onserve,
6 hold, manage, and prevent the loss of all Assets of the Receivership Entities, and perform
7 all acts necessary or advisable to preserve the value of those Assets”). By terminating the
8 lease for the Premises, the Receiver will save a significant amount each month on rent and
9 receive the security deposit for the benefit of the receivership estate.

10 **III. Conclusion**

11 For the foregoing reasons, the Receiver respectfully requests that the Court grant
12 the Motion, authorize the rejection and abandonment of the Premises, and order the return
13 of any security deposit with respect to the Premises.

14 DATED this 18th day of September, 2018.

15 SNELL & WILMER L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2018, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants, and by email to those who are not CM/ECF registrants:

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

Hite Media Group, LLC, et al.,

Defendants.

No. 2:18-CV-02221-SPL

**ORDER GRANTING RECEIVER'S
SECOND AMENDED MOTION TO
ABANDON LEASED OFFICE
PREMISES**

Upon consideration of the *Receiver's Second Amended Motion to Abandon Leased Office Premises*, and for good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the lease for the office premises located at 14040 N. Cave Creek Road, Suite 205, Phoenix, Arizona 85022 (the "**Premises**") is hereby rejected and abandoned by Stephen Donell, the duly appointed Receiver in this case (the "**Receiver**"), effective upon the earlier of entry of this Order or September 30, 2018. The landlord of the Premises shall return any security deposit associated with the Premises to the Receiver.