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**CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BY _____
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11
12 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

13
14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 BROADWAY GLOBAL MASTER INC., a
18 corporation, also d/b/a BGM,

19 IN-ARABIA SOLUTIONS INC., a
20 corporation, and

21 KIRIT PATEL, individually and as an officer
of BROADWAY GLOBAL MASTER INC.,
and IN-ARABIA SOLUTIONS, INC.

22 Defendants.
23
24

Case No. 12cv855 JAM

[Proposed]

**TEMPORARY RESTRAINING
ORDER WITH ASSET FREEZE
AND OTHER EQUITABLE
RELIEF, AND ORDER TO SHOW
CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT
ISSUE**

25 Plaintiff Federal Trade Commission has filed its Complaint against Defendants Broadway
26 Global Master Inc., In-Arabia Solutions, Inc., and Kirit Patel ("Defendants"), seeking a
27 permanent injunction and other equitable relief in this matter pursuant to Sections 13(b) and 19
28 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b) and 57b, and Section 814

Temporary Restraining Order

1 of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692l. The FTC has also
2 applied *ex parte* for a Temporary Restraining Order with asset freeze and other equitable relief,
3 and for an Order to Show Cause Why a Preliminary Injunction Should Not Issue, pursuant to
4 Rule 65(b) of the Federal Rules of Civil Procedure. The Court has considered the pleadings,
5 declarations, exhibits, and memorandum of law filed in support thereof and makes the following
6 findings of fact:

7 1. This Court has jurisdiction over the subject matter of this case. There is also good
8 cause to believe that it will have jurisdiction over all parties hereto, and that venue in this district
9 is proper.

10 2. There is good cause to believe that Defendants have engaged in, and are likely to
11 engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the
12 FDCPA, 15 U.S.C. §§ 1692 - 1692p, and that the Plaintiff is likely to prevail on the merits of this
13 action.

14 3. There is good cause to believe that immediate and irreparable harm will result
15 from Defendants' ongoing violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the
16 FDCPA, 15 U.S.C. §§ 1692 - 1692p, unless Defendants are restrained and enjoined by order of
17 this Court.

18 4. There is good cause to believe that immediate and irreparable damage to the
19 Court's ability to grant effective final relief for consumers in the form of monetary restitution
20 will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants
21 of assets or records if Defendants are provided with advance notice of this Order, and that in
22 accordance with Fed. R. Civ. P. 65(b), the interests of justice require that this Order be granted
23 without prior notice to Defendants. There is thus good cause for relieving Plaintiff of the duty to
24 provide Defendants with prior notice of the Plaintiff's motion and for the entry of the ancillary
25 relief contained in this Order, including freezing Defendants' assets, granting Plaintiff expedited
26 discovery, and prohibiting Defendants from destroying records.

27 5. Weighing the equities and considering the Commission's likelihood of ultimate
28 success, a temporary restraining order with asset freeze and other equitable relief is in the public

1 interest; and

2 6. No security is required of any agency of the United States for the issuance of a
3 temporary restraining order. Fed. R. Civ. P. 65(c).

4 **DEFINITIONS**

5 For purposes of this Order, the following definitions shall apply:

6 1. **“Assets”** means any legal or equitable interest in, right to, or claim to, any real or
7 personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,”
8 “general intangibles,” “inventory,” “checks,” or “notes,” (as these terms are defined in the
9 Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other
10 deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables,
11 funds, and all cash, wherever located.

12 2. **“Assisting others”** includes, but is not limited to: (1) providing administrative
13 services, including, but not limited to, filing business registrations with federal, state, or local
14 government entities; (2) acting as an officer, director, or registered agent of a business entity; (3)
15 establishing bank and/or merchant accounts; (4) handling banking transactions; (5) establishing
16 mail accounts and/or mail receiving boxes; (6) forwarding mail received from consumers; (7)
17 performing customer service functions, including, but not limited to, receiving or responding to
18 consumer complaints; (8) formulating or providing, or arranging for the formulation or provision
19 of, any sales script or other marketing material; (9) providing names of, or assisting in the
20 generation of, potential customers; (10) performing or providing marketing or billing services of
21 any kind; or (11) providing telemarketing services.

22 3. **“Corporate Defendants”** means Broadway Global Master Inc., and In-Arabia,
23 Inc., by whatever other names each may be known, and their successors and assigns, and any
24 subsidiaries, affiliates, and any fictitious business entities or business names created or used by
25 these entities, or any of them.

26 4. **“Debt”** means any obligation or alleged obligation to pay money, whether or not
27 such obligation has been reduced to judgment.

28 5. **“Defendants”** means the Individual Defendant and the Corporate Defendants,

1 individually, collectively, or in any combination.

2 6. **“Document”** is equal in scope and synonymous in meaning to the terms
3 “document” and “electronically stored information,” as described and used in Federal Rule of
4 Civil Procedure 34(a).

5 7. **“Financial Institution”** means any bank, savings and loan institution, credit
6 union, or any financial depository of any kind, including, but not limited to, any brokerage house,
7 trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious
8 metal dealer.

9 8. **“Individual Defendant”** means Kirit Patel.

10 9. **“Payment Processing”** means directly or indirectly providing any Defendant with
11 the means to access any consumer’s financial account through the use of any payment
12 mechanism, including but not limited to remotely created payment orders, remotely created
13 checks, ACH Debits, debit card transactions, credit card transactions, ATM debit card
14 transactions, stored value card transactions, and prepaid card transactions. Whether
15 accomplished through the use of software or otherwise, Payment Processing may include, among
16 other things, the performance of any function of collecting, preparing, formatting, charging, or
17 transmitting consumer bank account or credit card data for use in connection with the debiting,
18 charging, or accessing of a consumer’s bank or credit card account; monitoring, tracking, and
19 reconciling payments, returns, and charge-backs; providing pre-authorization, post-authorization,
20 and refund services to merchants; and disbursing funds receipts to merchants.

21 10. **“Payment Processor”** means any person, corporation, organization or other entity
22 that provides or performs Payment Processing services.

23 11. **“Person”** means a natural person, an organization or other legal entity, including a
24 corporation, partnership, sole proprietorship, limited liability company, association, cooperative,
25 or any other group or combination acting as an entity.

26 12. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”).

27 13. **“Website”** means a set of electronic documents, usually a home page and
28 subordinate pages, readily viewable on a computer by anyone with access to the World Wide

1 Web, standard software, and knowledge of the Website's location or address.

2 14. "World Wide Web" means a system used on the Internet for cross-referencing
3 and retrieving information.

4 15. The terms "and" and "or" in this Order shall be construed conjunctively or
5 disjunctively as necessary, to make the applicable sentence or phrase inclusive rather than
6 exclusive.

7 I.

8 **PROHIBITED BUSINESS ACTIVITIES**

9 **IT IS THEREFORE ORDERED** that Defendants, and their officers, agents, servants,
10 employees, attorneys, and all other persons in active concert or participation with any of them,
11 who receive actual notice of this Order by personal service or otherwise, whether acting directly
12 or through any trust, corporation, subsidiary, division, or other device, or any of them, in
13 connection with the collection of alleged debts, are hereby temporarily restrained and enjoined
14 from:

15 A. Misrepresenting, or assisting others in misrepresenting, directly or indirectly,
16 expressly or by implication, any material fact, including, but not limited to, that:

17 1. The consumer is delinquent on a payday loan that Defendants have the
18 authority to collect;

19 2. Defendants are a law enforcement agency or that they are otherwise
20 affiliated with a government agency;

21 3. The consumer has a legal obligation to pay the Defendants;

22 4. The consumer will be arrested or imprisoned for failing to pay the
23 Defendants; or

24 5. Defendants can or will take formal legal action against a consumer who
25 fails to pay, such as filing suit;

26 B. Violating, or assisting others in violating, any provision of the FDCPA, 15 U.S.C.

27 §§ 1692 - 1692p, including, but not limited to Sections 806 and 807 of the FDCPA, 15 U.S.C.

28 § 1692d-e, by:

1 III.

2 **POSTING NOTICE OF LAWSUIT ON WEBSITE**

3 **IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants,
4 employees, attorneys, and all other persons in active concert or participation with any of them,
5 who receive actual notice of this Order by personal service or otherwise, whether acting directly
6 or through any trust, corporation, subsidiary, division, or other device, or any of them, and any
7 other person or entity served with a copy of this Order, shall immediately take whatever action is
8 necessary to ensure that any Website used by any Defendant for offering or advertising debt
9 collection services including, but not limited to, the Websites located at bgminc.us and
10 ecrdinc.com, shall prominently display the following statement:

11 The Federal Trade Commission (“FTC”) has filed a lawsuit against Broadway
12 Global Master Inc., In-Arabia Solutions, Inc., and Kirit Patel, also doing business
13 as BGM, operating, in part, from Tracy, California, 95304, alleging that they have
14 engaged in deceptive practices relating to the collection of alleged debts. The
15 United States District Court for the Eastern District of California has issued a
16 temporary restraining order prohibiting the alleged practices. You may obtain
17 additional information directly from the FTC at www.ftc.gov.

18 Each Website carrying this message shall also provide a hypertext link to the FTC’s home
19 page at www.ftc.gov, or another home page designated by counsel for the Commission.

20 IV.

21 **ASSET FREEZE**

22 **IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants,
23 employees, attorneys, and all other persons in active concert or participation with any of them,
24 who receive actual notice of this Order by personal service or otherwise, whether acting directly
25 or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby
26 temporarily restrained and enjoined from:

27 A. Transferring, liquidating, converting, dissipating, disbursing, assigning, spending,
28 withdrawing, or otherwise disposing of any funds held in the following accounts:

1. Bank of America account number ending in -7820 held in the name of
Broadway Global Master;

1 2. JPMorgan Chase account number ending in -3512, held in the name of
2 Broadway Global Master Inc.;

3 3. JPMorgan Chase account numbers ending in -1249 and -1346, held in the
4 name of Kirit D. Patel;

5 4. National Bank of California account number ending in -4909, held in the
6 name of Broadway Global Master Inc.;

7 5. Global Payments Inc. account numbers ending in -0300, -1039, and -1752,
8 held in the name of Broadway Global Master;

9 6. First South Bank of Bolivar, Tennessee account numbers ending in -5085
10 and -8527, held in the name of Kirit Patel;

11 7. Bank One of Arlington, Texas account number ending in -1249, held in
12 the name of Kirit Patel, and

13 8. Any accounts held in the name of Broadway Global Master Inc. or In-
14 Arabia Solutions Inc.

15 B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes,
16 or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or
17 under any Defendant's control, without providing the Commission prior notice and an
18 opportunity to inspect the contents in order to determine that they contain no assets covered by
19 this Section;

20 C. Cashing any checks or depositing or processing any payments from consumers
21 relating to Defendants' collection of alleged debts; or

22 D. Selling, transferring, or encumbering the real property known as and described as
23 1570 Eastlake Circle, Tracy, California, 95304.

24 *Provided*, that the freeze imposed in this Section shall be construed to not apply to assets
25 that the Individual Defendant acquires following service of this Order if the Individual Defendant
26 can prove that such assets are not derived from activity prohibited by this Order.

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V.

PRESERVATION OF FOREIGN ASSETS AND DOCUMENTS

IT IS FURTHER ORDERED that Defendants shall instruct any entity located outside of the territory of the United States that is holding on behalf of any Defendant to preserve: (1) any assets that were transferred outside the territory of the United States directly or indirectly by any Corporate Defendant; or (2) any documents that relate to the factual allegations in the Complaint in this matter.

VI.

PRESERVATION OF RECORDS AND REPORT OF NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons or entities in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, shall:

- A. Preserve any documents, including electronically stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control of the Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; and
- B. Notify counsel for the Commission prior to creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship or corporation. Such notification shall include: (1) the name of the business entity; (2) the address, telephone number, e-mail address, and Website address of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

VII.

PROHIBITION ON DISCLOSING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, attorneys, and all other persons or entities in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby temporarily restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, birth date, telephone number, e-mail address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint; and

B. Benefitting from or using the name, address, birth date, telephone number, e-mail address, Social Security number, credit card number, bank account number, or other financial or identifying personal information of any person from whom or about whom any Defendant obtained such information in connection with activities alleged in the FTC's Complaint.

Provided, however, that Defendants may disclose such financial or identifying personal information to a law enforcement agency or as required by any law, regulation, or court order.

VIII.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to all individuals and business entities with which it engaged in any business in connection with the allegations set forth in the Complaint in this matter, including, but not limited to, all Payment Processors for any Defendant.

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1 IX.

2 **SERVICE OF ORDER**

3 **IT IS FURTHER ORDERED** that this Order shall be served:

- 4 A. On Individual Defendant Kirit Patel by personal service;
- 5 B. On Corporate Defendants by personally serving an officer or agent of the
6 company or by leaving a copy of this Order with a person of suitable age at the
7 Defendant's business address; and
- 8 C. On financial institutions or other third parties required to be served pursuant to
9 this Order by facsimile transmission, overnight delivery, first class mail, or
10 electronic mail.

11 X.

12 **NOTICE TO PLAINTIFF**

13 **IT IS FURTHER ORDERED** that to the extent any notice to the FTC is required
14 pursuant to this Order, and is not filed through the ECF system, such notice shall be provided by
15 overnight mail, electronic mail, courier delivery, or facsimile to:

16 Lisa D. Rosenthal
17 Sarah Schroeder
18 Kerry O'Brien
19 Austin A.B. Ownbey
20 Federal Trade Commission
21 901 Market Street, Ste. 570
22 San Francisco, CA 94103
23 (415) 848-5100 (voice)
24 (415) 848-5184 (fax)
25 lrosenthal@ftc.gov

26 XI.

27 **DURATION OF TEMPORARY RESTRAINING ORDER**

28 **IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein
shall expire on April 18, 2012 at 9:30 a.m., unless within such time, the Order, for good cause
shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be
extended for a longer period of time. *See* Fed. R. Civ. P. 65(b)(2) (a TRO must expire within 14
days of entry).

1 Parties may apply to the court for modification or dissolution of the TRO on two (2) days
2 notice or such shorter notice as the court may allow. *See* Local Rule 65-231 and FRCP 65(b).

3 **XII.**

4 **ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

5 **IT IS FURTHER ORDERED**, pursuant to Federal Rule of Civil Procedure 65, that each
6 Defendant shall appear before this Court on April 18, 2012, at 9:30 a.m., at 501 I Street,
7 Sacramento, California, 14th Floor, Courtroom 6, to show cause, if there is any, why this Court
8 should not enter a Preliminary Injunction, pending final ruling on the Complaint against
9 Defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. §
10 45(a), and the FDCPA, 15 U.S.C. §§ 1692-1692p, continuing the freeze of their assets, and
11 imposing such additional relief as may be appropriate.

12 **XIII.**

13 **SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE**

14 **IT IS FURTHER ORDERED** that:

15 A. Defendants shall file with the Court and serve on Plaintiff's counsel any
16 answering affidavits, pleadings, motions, expert reports or declarations, and/or legal memoranda
17 no later than 4:00 p.m. on April 12, 2012; and

18 B. Plaintiff may file responsive or supplemental pleadings, materials, affidavits, or
19 memoranda with the Court and serve the same on counsel for Defendants no later than no later
20 than 4:00 p.m. on April 16, 2012.

21 **XIV.**

22 **RETENTION OF JURISDICTION**

23 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for
24 all purposes.

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1 IT SO ORDERED, this 5th day of April, 2012, at 2:45 p.m.
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JUDGE JOHN A. MENDEZ

United States District Judge

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