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Attorneys for Michael A. Grassmueck, Receiver

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

MERCHANT PROCESSING, INC.;
VEQUITY FINANCIAL GROUP, INC.;
DIRECT MERCHANT PROCESSING,
INC.; PPI SERVICES, INC.; AARON LEE
RIAN; KARLEY MCCARTHY, AKA
KARLY SPEELMAN,

Defendants.

Case No. CV 07-0533-BR

MOTION FOR ORDER TO (I) ALLOW
CERTAIN CLAIMS, (II) AUTHORIZE
PAYMENT TO CERTAIN TERMINAL
LEASE COMPANIES, AND (III)
TRANSFER ESTATE FUNDS TO
FEDERAL TRADE COMMISSION
REDRESS CONTRACTOR

[Motion, Memorandum, Declaration of
Michael A. Grassmueck, and Proposed
Order, Filed Concurrently Herewith]

I.

CERTIFICATION

Counsel for Michael A. Grassmueck, as receiver (the "Receiver") with regard to Merchant Processing, Inc. ("MPI"), Vequity Financial Group, Inc. Direct Merchant Processing, Inc., their respective affiliates and subsidiaries under the control of any of them, including, but not limited to, Bad Boy Enterprises, Inc., dba Atlantic Hound, Bad Boy Racing, LLC, Bad Boy Investments, LLC, Rian Racing, Inc., and PPI Services, Inc. (collectively, the "Receivership Defendants"), hereby certify that they have conferred with counsel for the Federal Trade Commission ("FTC"), which has reviewed and consented to this Motion. The Receiver has given notice of this motion to the persons entitled thereto.

In addition, the FTC and Receiver respectfully request that this motion (together with the Memorandum in support of the Motion) also serve as the Status Report due to this Court on June 23, 2011.

II.

MOTION

On February 18, 2010, in connection with his duties as equity receiver as set forth in the Stipulated Preliminary Injunction and Order for Other Equitable Relief, entered on April 30, 2007, the Receiver filed a motion for order to approve claims procedures and for order establishing claims bar date ("Claims Motion"). Pursuant to Court order entered on March 2, 2010, the Court approved the Claims Motion, including the claims bar date of June 11, 2010 ("Claims Bar Date").

For the Claims Bar Date, and claims procedures, the Receiver notified approximately 5,187 merchants (and other creditors) of the necessity of filing a proof of claim for the Receivership Estate in order to participate in any distributions from the Receivership Estate funds. In response to such notification, the Receiver received 124

filed proofs of claims (“First Merchant Claims”). The Receiver then began working with the FTC in checking the Receivership Estate's records to verify the correct amounts of such First Merchant Claims, and reviewing the documentary support provided to prove up the validity of the Claims.

Following the Receiver's and FTC's exhaustive and diligent review, the Receivership Estate determined that of the 124 First Merchant Claims filed, 106 should be allowed and paid in full (which total \$953,104.86), with the remainder of the First Merchant Claims disallowed. Attached as Exhibit "A" to the Memorandum in Support of the Motion, filed concurrently herewith, is a reference chart showing those First Merchant Claims which will be allowed in full, and those First Merchant Claims which will be disallowed.

After providing notification of the claims procedures and Claims Bar Date, the Receiver discovered that approximately 1,929 merchants ("Second Merchant Claims Group") were not notified of the requirement to file proofs of claim. The Receiver proceeded on April 4, 2011 to immediately mail proof of claim forms to the Second Merchant Claims Group, and provided an extended Claims Bar Date of June 6, 2011 for these potential claimants.

From the second group, the Receivership Estate received an additional 23 proofs of claim (“Second Merchant Claims”), which total \$58,514.78. The Receiver with the FTC's assistance is reviewing these Second Merchant Claims and determining whether these claims may be subject to allowance and payment in full. When the allowance decisions are made on the Second Merchant Claims, the Receiver will then request Court approval to transfer the appropriate amount of funds to the FTC Redress Contractor for distribution to the allowed Second Merchant Claims.

In late 2010 through April 2011, the Receiver contacted the 7 companies that leased terminal services to merchants for credit card processing for the Receivership Defendants ("Terminal Lease Companies"). At the outset of the case, the Receiver

advised the Terminal Lease Companies to stop all collection efforts against merchant customers of the Receivership Defendants.

The Receiver conferred with 5 of the 7 Terminal Lease Companies (as two of the companies were discovered not to have active mailing addresses or phone numbers). These Terminal Lease Companies agreed to cooperate with the Receiver on the amounts owed to them by the Receivership Estate, including waiving all penalties, interest and collection costs, and removing all negative credit reporting related to merchants which had engaged in business transactions with the Terminal Lease Companies (and also agreed to cooperate on any future corrections which would be needed if additional negative credit reporting is discovered). After reaching an agreement with the Receiver on payment of the Terminal Lease Companies for their services, they agreed to accept as full and final payment the amount of \$760,065.05. Attached as Exhibit "B" to the Memorandum in Support of the Motion is a reference chart showing those Terminal Lease Companies, which will be paid in full for their services.

The Receiver and the FTC have approved payment of this sum to the Terminal Lease Companies, and the Receiver will pay this sum directly from Receivership Estate funds.

Based on the significant process made in the claims review and allowance process, and the existence of funds available for distribution to merchants and creditors, the Receiver has determined that it is appropriate at this time to (i) allow certain claims against the Receivership Estate (and disallow other claims), (ii) make payments from Receivership Estate funds to certain Terminal Lease Companies, and (iii) transfer certain of the Receivership Estate funds to the FTC (in particular, the FTC's redress contractor) ("FTC Redress Contractor") for payment on the allowed merchant claims. The FTC Redress Contractor would act as a distribution agent for the FTC and distribute funds to those holding allowed merchant claims in the full amount of the allowed claims.

