

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
)
v.)
)
GLOBAL ACCESS TECHNICAL)
SUPPORT LLC, et al.)
)
Defendants.)

Case No. 4:16-cv-01556-HEA

**DECLARATION OF RECEIVER, CLAIRE M. SCHENK, IN SUPPORT OF MOTION
AND SUPPORTING MEMORANDUM FOR DISTRIBUTION OF
FUNDS RECEIVERSHIP ASSETS AND WIND UP OF PROCEEDING**

I, Claire M. Schenk, being duly sworn, declare:

Background

1. I am a practicing attorney and have been a Partner with Thompson Coburn LLP since 2007. This declaration is submitted in support of the Receiver’s Motion and Memorandum for Distribution of Receivership Assets and for Wind Up of this Proceeding (“the Memorandum”). On October 3, 2016, the United States Federal Trade Commission (“the FTC or Commission”) filed its Complaint and sought a Temporary Restraining Order and the Appointment of a Receiver. As a result, the Court entered the requested relief by order entitled *Temporary Restraining Order with Asset Freeze, Appointment of a Receiver, Other Equitable Relief, and Order to Show Cause Why a Preliminary Injunction Should Not Issue* (the “Order”) dated October 4, 2016. See Order (Dkt. No. 10). The Order directed the Receiver to (i) assume full control of the Receivership Defendants; (ii) take exclusive custody, control, and possession of all assets and documents of, or in the possession custody, or under the control of, the

Receivership Defendants, wherever situated; (iii) take possession of and secure all areas of the business premises of the Receivership Defendants; (iv) conserve, hold, and manage all receivership assets, and perform all acts necessary or advisable to preserve the value of those assets, in order to prevent any irreparable loss, damage, or injury to consumers or to creditors of the Receivership Defendants; (v) enter into contracts and purchase insurance; (vi) prevent inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors; and (vii) manage and administer the business of the Receivership Defendants, among other duties. *Id.* at 14-15.

2. As to certain of the Defendants, i.e., individual defendant Rajiv Chhatwal (“Chhatwal”), GATS, Source Pundit, Helios, and DigiCare (the “Stipulating Defendants”), on June 6, 2017, the Court entered the Liquidation Order, which included a Permanent Injunction and Final Judgment (“Liquidation Order”) (Dkt. No. 102). As a result, the Stipulating Defendants are permanently restrained and enjoined from various activities involving Tech Support Products and Services and are prohibited from related deceptive misrepresentations. A Judgment in the amount of \$5,150,506 was entered in favor of the FTC and against the Stipulating Defendants and is to be suspended upon the completion of various obligations. The Court also entered a Permanent Injunction and Final Judgment as to individual defendants Kaur and Singh in the amount of \$800,375 (“the individual defendants”). This Judgment will also be suspended upon the performance of various obligations of the individual defendants (Dkt. No. 101).

3. Additional details of the procedural history of this matter and the Receiver’s historical activity are set forth in the Memorandum. This Declaration will serve as the Receiver’s Final Status Report and provides a summary of the Receiver’s most recent activity.

Additionally, this Declaration will summarize matters pertinent to the wind up and resolution of the Receivership, including the disposition of potential claims, the distribution of funds to the FTC, the payment of Fees and Expenses and the establishment of a reserve.

Liquidation Activity and Disbursement of Funds

4. Pursuant to the Liquidation Order, the Receiver has liquidated accounts and the real property located at 559 Graeser for a cash collection of \$859,525.16. The remainder of the Indus Ind account, the sum of \$2,100, was recovered by the Receiver from Chhatwal during this recent reporting period under the Liquidation Order. The Receiver's accounting of funds recovered under the Liquidation Order is attached hereto. *See* Exhibit A-1. The Receiver's accounting lists fees and expenses of the liquidation activity, including those submitted for the approval of the Court as part of the Receiver's Motion. The Receiver requests approval of the Court for a disbursement to the FTC of the approximate sum of \$771,367.83, along with the Receivership funds recovered under the original Order, for a total disbursement to the FTC of approximately \$834,448.02. Exhibit A-2. For the reasons explained below, this recovery is substantially greater than the previously reported estimated recovery of \$635,788.10.

5. Pursuant to Section III. F of the Liquidation Order, which pertains to the Wells Fargo Securities account ending in 9595 and under Section III. G of the Liquidation Order, which pertains to the real property at 559 Graeser, the Receiver was directed to set aside a reserve for payment of Chhatwal's estimated personal tax liability on the distribution amounts resulting from the liquidation of the account and the real property. Under each provision of the Liquidation Order, with the approval of the Receiver, Chhatwal was to be allowed to utilize such funds as determined necessary to pay his tax liability on the distribution amounts so long as he provided the documentation required by the Receiver and filed his tax returns no later than April

17, 2018. Based upon the information recently provided by Chhatwal, the Receiver recommends that this matter be closed without the establishment of a reserve or any sums paid to Chhatwal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] This information was shared with Chhatwal, his attorney, and his accountant.

6. As noted above, the Receiver's Motion requests that, following the approval and payment of outstanding fees and expenses, and subject to the Reserve described below, all remaining liquid assets in the accounts controlled by the Receiver be distributed to the FTC for the benefit of defrauded consumers and other proper purposes. The Receiver recommends that this distribution be made without the solicitation of, or payment of, claims from potential creditors. Consumers contacting the Receiver have been advised that when the litigation is concluded, available funds will be distributed to victims by the FTC. The FTC oversees both the process of recording consumer complaints and the distribution of funds to the victims of fraud. In similar situations, Courts have found that a constructive trust was created over the funds held in the receivership estate for the benefit of the injured consumers. A complete return of these funds to the FTC is additionally supported by the fact that the FTC obtained a Consent Judgment in the amount of \$5,150,506 against the Stipulating Defendants and a Consent Judgment against the Individual Defendants in the amount of \$800,375. The Consent Judgments were sought under the FTC's authority to obtain restitution and other equitable relief. Since the sums to be returned to the FTC under the original Order, as well as the Liquidation Order, fall far short of

the amount of the FTC Consent Judgments, the liquid assets should be disbursed to the FTC upon wind up for the benefit of and distribution to defrauded consumers.

Recent Receivership Activity

7. Since the filing of the Fourth Receivership Report in December, following the conclusion of the calendar year, Segue Capital (“Segue”) closed the books for GATS, Helios, and Global sMind. Segue prepared income statements for GATS and Helios based upon the information which the Receiver was able to obtain from Chhatwal and the other defendants. These income statements will serve as a de facto Schedule C for the single member LLCs. The final tax filing for Global sMind was previously made by the Receiver’s accountants, Clifton Larson Allen (“CLA”), and final K-1s were provided to its members. Chhatwal has informed the Receiver that, following the conclusion of the Receivership, he will close these companies. Additionally, Segue reviewed and discussed payments made by the Receiver so that 1099s were provided, as appropriate. CLA has continued to assist the Receiver in providing tax advice on an as-needed basis so that the Receiver may respond in an appropriate manner to taxing authorities, members of the Receivership companies, and others.

8. During this final reporting period, the Receiver established and continued to update a website (www.gatsreceivership.com) to provide relevant information to consumers, creditors, and other interested individuals. Access to such information is being provided through a link on the website of Thompson Coburn LLP. To minimize the operating costs of the Receivership and conserve the Receivership estate, interested parties have been encouraged to access this publicly available source of information. This website will be updated with the final filings in this matter and remain available for review by injured consumers and other interested parties for 180 days following the termination of the Receivership. Throughout the

Receivership, the Receiver has also communicated directly with defrauded consumers and their representatives on an as-needed basis.

9. As part of this declaration and filing, the Receiver requests that the fees and expenses reflected in the attached invoices be approved for payment by the Court. The attached invoices of the Receiver and her attorneys (Thompson Coburn, LLP), her bookkeepers (Segue), and tax preparers (CLA) pertain to fees and expenses for the services described hereinabove. Regarding payments, the Receiver requests that payments be made in the total amount of \$19,944.75 and distributed as follows: Thompson Coburn, \$18,918.99; Segue \$940.76; and CLA \$85.00. *See* Exhibits A-4 and A-5. The Receiver requests that she be authorized to make payment from either account controlled by the Receiver and which contain funds as follows: Global sMind, \$3,228.63; and Global Access Technical Support, \$856,115.03. *See* Exhibit A-3.

10. Beyond the fees and expenses requested herein above, the Receiver further requests that she be allowed to establish a post receivership reserve of \$12,500 (“the Reserve”) to cover fees and expenses relating to: the finalization of the Receiver’s report; coordination of this filing with the FTC; service and communications with potential creditors; provision of such other notices as are required; and responses to taxing authorities and others as are required. The Receiver requests that she be allowed to pay any and all post receivership fees and expenses in a self-executing manner, without further Court Order, upon the consent of the FTC. In addition, the Receiver, at the appropriate time and based upon the Receiver’s determination that no further post-receivership fees and expenses remain outstanding, requests authority to transfer any receivership funds remaining in the Reserve to the FTC.

* * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This Declaration was executed this 9 day of May, 2018.

/s/ Claire M. Schenk

Claire M. Schenk