

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Federal Trade Commission, and

**State of Ohio ex rel. Attorney General
Dave Yost,**

Plaintiffs,

v.

Madera Merchant Services, LLC, dba E
Check Processing and
echeckprocessing.net, a Texas company,

B&P Enterprises, LLC, a Texas company,

Bruce C. Woods, individually and as an
owner, officer, member, and/or manager of
Madera Merchant Services, LLC and B&P
Enterprises, LLC,

Patricia Woods, individually and as an
owner, manager, and/or member of Madera
Merchant Services, LLC and B&P
Enterprises, LLC,

and

Victor Rodriguez, individually and as an
officer, member, and/or manager of Madera
Merchant Services, LLC,

Defendants.

No. 3:19-CV-195

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AGAINST
MADERA MERCHANT SERVICES,
LLC; B&P ENTERPRISES, LLC;
BRUCE C. WOODS; PATRICIA
WOODS; AND VICTOR RODRIGUEZ**

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and the State of Ohio, filed their Complaint for Permanent Injunction and Other Equitable Relief under Section 13(b) and 19 of the FTC Act, 15 U.S.C. § 53(b), 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.07 (DE 10). Plaintiffs and Defendants

Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez participated in acts or practices that violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and the CSPA, O.R.C. 1345.01 et seq.
3. Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez admit the facts necessary to establish jurisdiction.
4. Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear their own costs and attorney fees.
5. Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez and Plaintiffs waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

- A. “**Consumer Transaction**” means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things.
- B. “**Corporate Defendants**” means Madera Merchant Services, LLC, B&P Enterprises, LLC, and each of their subsidiaries, affiliates, successors, and assigns.
- C. “**Defendants**” means the Corporate Defendants and the Individual Defendants, individually, collectively, or in any combination.
- D. “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the meaning of the term.
- E. “**Individual Defendants**” means Bruce Woods, Patricia Woods, and Victor Rodriguez, individually, collectively, or in any combination.

F. **“Payment Processing”** means providing a Person, directly or indirectly, with means or service used to charge or debit financial accounts through the use of any payment method or mechanism, including, but not limited to, credit cards, debit cards, prepaid cards, stored value cards, Automated Clearing House (“ACH”) Debits, Remotely Created Payment Orders, and Remotely Created Checks. Whether accomplished through the use of software or otherwise, Payment Processing includes, among other things: (a) reviewing and approving merchant applications for payment processing services; (b) providing the means to transmit sales transaction data from third-party merchants to banks, credit unions, Payment Processors, independent sales organizations, payment facilitators or other financial institutions; (c) clearing, settling, or distributing proceeds of sales transactions from banks, credit unions, or other financial institutions to third-party merchants; or (d) processing chargebacks or returned Remotely Created Payment Orders, checks or ACH transactions on behalf of third-party merchants.

G. **“Payment Processor”** means any Person providing Payment Processing services in connection with another Person’s sale of goods or services, or in connection with any charitable donation.

H. **“Person”** means any natural person or any entity, corporation, partnership, or association of persons.

I. **“Remotely Created Payment Order”** or **“RCPO”** means a payment instruction or order, whether created in electronic or paper format, drawn on a payor’s account that is initiated or created by or on behalf of the payee, and which is deposited into or cleared through the check clearing system. For purposes of this definition, an account includes any financial account or

credit or other arrangement that allows checks, payment instructions, or orders to be drawn against it that are payable by, through, or at a bank.

J. **“Receiver”** means the receiver appointed in Section VII of this Order and any deputy receivers that shall be named by the receiver.

K. **“Receivership Entities”** means the Corporate Defendants as well as any other entity that has conducted any business related to the Defendants’ RCPO payment processing scheme, including receipt of assets or funds derived from any activity that is the subject of the Complaint in this matter, and that the Receiver determines is controlled or owned by any Defendant.

L. **“Seller”** means any Person who, in connection with a Telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to a customer in exchange for consideration.

M. **“Telemarketer”** means any Person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

N. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

ORDER

I. PROHIBITION REGARDING PAYMENT PROCESSING

IT IS ORDERED that Defendants are permanently restrained and enjoined from Payment Processing.

II. PROHIBITIONS ON VIOLATING THE TSR

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly,

in connection with Telemarketing of any product or service, are permanently restrained and enjoined from violating any provision of the TSR, 16 C.F.R. Part 310, attached as Attachment A.

III. PROHIBITIONS ON VIOLATING THE OHIO CSPA

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, are permanently restrained and enjoined from engaging in unfair or deceptive acts or practices in violation of the Ohio CSPA, R.C. 1345.02.

IV. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of **8.646 Million Dollars (\$8,646,000.00)** is entered in favor of Plaintiffs against Madera Merchant Services, LLC; B&P Enterprises, LLC; Bruce Woods; Patricia Woods; and Victor Rodriguez, jointly and severally, as equitable monetary relief. Full payment of the foregoing amount shall be suspended upon satisfaction of the obligations set forth in Subsection B of this Section, and subject to the conditions set forth in Subsections B, C, and D of this Section:
- B. Effective upon the entry of this Order, Defendants shall surrender to Plaintiffs or their representatives, all control, title, dominion, and interest in the following assets:
1. All funds in the Bank of America account in the name of Bruce and Patsy (Patricia) Woods with the account number X6058;
 2. All funds in the Bank of America account in the name of Bruce and Patsy (Patricia) Woods with the account number X6252;
 3. All funds in the Teachers Federal Credit Union account in the name of Bruce and Patsy

(Patricia) Woods with the account number X615;

4. All funds in the Bank of America account in the name of Victor Rodriguez with the account number X1297;
5. All funds in the Ally Bank account in the name of Victor Rodriguez with the account number X3084;
6. All funds in the GECU account in the name of Victor Rodriguez with the account number X9951;
7. Cocktail Ring identified in the Financial Statement of Individual Defendants Bruce and Patsy (Patricia) Woods signed on August 6, 2019;
8. Two watches identified in the Financial Statement of Individual Defendants Bruce and Patsy (Patricia) Woods signed on August 6, 2019:

1.	Women’s Rolex (Estimated Value \$11,300)
2.	Men’s Tag Heuer (Estimated Value \$4,500)

9. All fees owed from Paya, Inc. dba Paya Services to Bruce C. Woods currently in the possession Paya Services;
10. All assets of Receivership Entities Madera Merchant Services, LLC and B&P Enterprises, LLC, or any other entity under the control of the Receiver, including the following:

- a. All funds from accounts at the following banks/credit unions in the name of Madera Merchant Services, LLC:

1.	Bank 34	5.	Nusenda Bank
2.	Bank of America	6.	United Business Bank

3.	Bank of Albuquerque	7.	University Federal Credit Union
4.	First Light Federal Credit Union	8.	Washington Federal Credit Union

b. All funds from accounts at the following banks/credit unions in the name of B&P Enterprises, LLC:

1.	JP Morgan Chase Bank		
2.	Lone Star Bank		
3.	Wells Fargo Bank, N.A.		

c. All funds in any reserve account held by a financial institution in the name of, or for the benefit of, Madera Merchant Services, LLC, B&P Enterprises, LLC or any other entity under the control of the Receiver.

C. For each financial institution or Payment Processor account listed in Subsections B.1 – B.6 and B.9 the financial institution or Payment Processor identified shall, within five (5) days of entry of this Order, remit the entire balance of each account to the Commission by certified check(s) or other guaranteed funds payable to the Federal Trade Commission, Financial Management Office, or by wire transfer in accordance with directions provided by the Commission. Defendants shall cooperate in good faith with the Plaintiffs to effectuate these transfers, and shall, if needed, execute such documents as are necessary to remit the entire balance of each account to the Commission.

D. Within five (5) days of the entry of this Order, Individual Defendants shall transfer to the Receiver each asset identified in Subsections B.7 and B.8.

E. Plaintiffs’ agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants’ sworn financial statements and

related documents (collectively, “financial representations”) submitted to the Commission, namely:

1. The Financial Statement of Individual Defendants Bruce and Patsy (Patricia) Woods signed on August 6, 2019, including the attachments; and
2. The Financial Statement of Individual Defendant Victor Rodriguez signed on July 28, 2019, including the attachments.

F. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Plaintiffs, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

G. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount of **8.646 Million Dollars (\$8,646,000.00)** specified in Subsection A. above, which the parties stipulate represents the consumer injury alleged in the Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. The Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Plaintiffs, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.

§523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. The Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

E. All money paid to the Plaintiffs pursuant to this Order may be deposited into a fund administered by the Commission or its designee on behalf of the Commission and the State of Ohio to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Plaintiffs decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Plaintiffs may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief shall be divided between the Commission and the State of Ohio to be deposited to the U.S. Treasury as disgorgement and to the Ohio Attorney General's Telemarketing Fraud Enforcement Fund. The Defendants have no right to challenge any actions the Plaintiffs or their representatives may take pursuant to this Subsection.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, are permanently restrained and

enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If Plaintiffs' representative requests in writing any information related to redress, Settling Defendant must provide it, in the form prescribed by Plaintiffs' representative, within 14 days; and

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, Social Security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with any activity that pertains to processing of RCPOs; and

C. Failing to destroy such customer information in all forms in his possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

VII. APPOINTMENT OF RECEIVER

IT IS FURTHER ORDERED that Susan M. Forbes, the Receiver appointed by prior orders of this Court, is hereby appointed Receiver for the purpose of taking the necessary steps to wind down the Receivership Entities. In carrying out these duties, the Receiver shall be the agent of this Court, shall be accountable directly to this Court, and is authorized and directed to:

A. Perform all acts necessary to protect, conserve, preserve, and prevent waste or dissipation of the Receivership Entities assets until their sale;

B. Within 60 days, sell the Receivership Entities assets and assets surrendered by Defendants pursuant to Subsections IV B.7 and B.8 without further order of the court;

C. Enter into agreements in connection with the reasonable and necessary performance of the Receiver's duty to sell the Receivership Entities assets and assets surrendered by Defendants pursuant to Subsections IV B.7 and B.8, including, but not limited to, the retention of assistants, agents, or other professionals to assist in the sale of these assets;

D. Distribute to the Plaintiffs, without further order of the court, the funds received from the sale of the Receivership Entities assets and assets surrendered by Defendants pursuant to Subsections IV B.7 and B.8;

E. Take any and all steps the Receiver concludes are appropriate to wind down the Receivership Entities within 60 days of the entry of this Order; and

F. Store and secure the Receivership Entities' records, including ESI until either entry of a final order against the last remaining Defendant in this proceeding or receipt of written direction to do so from a representative of the FTC.

Within 30 days of the entry of this Order, the Receiver shall liquidate all hardware related to the Receivership Entities' ESI, after ensuring all customer information has been erased and is not recoverable.

VIII. COOPERATION

IT IS FURTHER ORDERED that Defendants must fully cooperate with representatives of the Plaintiffs in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendants must provide truthful and complete information, evidence, and testimony. Defendants must appear for interviews, discovery, hearings, trials, and any other proceedings that Plaintiffs' representative may

reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as Plaintiffs' representative may designate, without the service of a subpoena.

IX. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

- A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Plaintiffs an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For five (5) years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendants make timely submissions to the Plaintiffs:

- A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Plaintiffs may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendants must describe if they know or should know due to their own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Plaintiffs.

2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Plaintiffs required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Plaintiffs’ representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580; the subject line must begin: *FTC et al., v. Madera Merchant Services, LLC* X190038.

F. Unless otherwise directed by a Plaintiffs’ representative in writing, all submissions to the Ohio Attorney General pursuant to this Order must be mailed to: Ohio Attorney General’s Office, Consumer Protection Section, Attn: Compliance Unit, 30 East Broad Street, 14th Floor,

Columbus, Ohio 43215; the subject line must begin: FTC/Ohio v. Madera Merchant Services, LLC.

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 10 years after entry of the Order, and retain each such record for five (5) years. Specifically, Corporate Defendants and each Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response; and
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Plaintiffs.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Plaintiffs, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for

inspection and copying. The Plaintiffs are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Plaintiffs are authorized to communicate directly with each Defendant. Defendant must permit representatives of the Plaintiffs to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

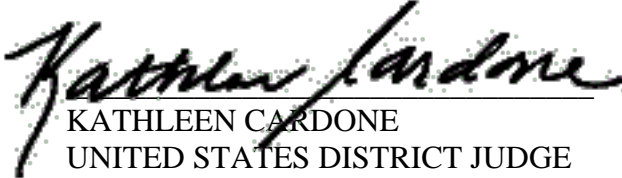
C. The Plaintiffs may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Plaintiffs' lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

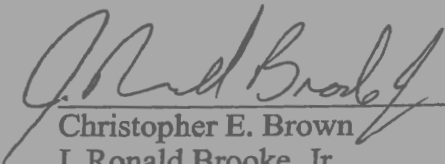
D. Upon written request from a representative of the Plaintiffs, any consumer reporting agency must furnish consumer reports concerning Individual Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED, this _____ day of _____, 2020.


KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE

 6-1-2020

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STATE OF OHIO

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By:

B&P Enterprises, LLC
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Bruce C. Woods

Patricia Woods

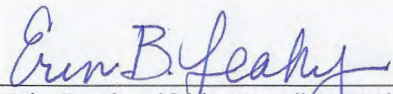
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Patricia Woods

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