

1 Neil A. Goteiner (State Bar No. 083524)
ngoteiner@fbm.com
2 Farella Braun & Martel LLP
235 Montgomery Street, 17th Floor
3 San Francisco, CA 94104
Telephone: (415) 954-4400
4 Facsimile: (415) 954-4480

5 Attorneys for Plaintiffs
6 MONEX DEPOSIT COMPANY and
MONEX CREDIT COMPANY

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT
10 (SOUTHERN DIVISION – SANTA ANA)

12 MONEX DEPOSIT COMPANY and
13 MONEX CREDIT COMPANY,

14 Plaintiffs,

15 vs.

16 JASON GILLIAM, STEVEN
17 BOWMAN, RICHARD GILLIAM,
and DOES 1-50,

18 Defendants.

Case No. 8:09-CV-00287-JVS-AN

**APPLICATIONS FOR
TEMPORARY RESTRAINING
ORDER, FOR ORDER TO SHOW
CAUSE, AND FOR EARLY
DISCOVERY**

The Hon. James V. Selna

19 Plaintiffs Monex Deposit Company and Monex Credit Company apply for a
20 temporary restraining order as set forth below on the grounds that, without the
21 requested relief, defendants are likely to harm plaintiffs immediately in ways that
22 cannot be redressed by a post-trial remedy, that plaintiffs have a reasonable
23 probability of success in this action, that the balance of equities tips in the
24 plaintiffs' favor, and that the requested TRO is in the public interest.

25 Plaintiffs also seek an order to show cause why a preliminary injunction
26 should not issue against defendants continuing the terms of the temporary
27 restraining order until a judgment is entered in this action. They submit that the
28 memorandum and evidence submitted herewith support the issuance of such order.

1 Plaintiffs also apply for an order to allow early and expedited discovery
2 necessary for the parties to prepare for the hearing on the requested preliminary
3 injunction.

4 The relief is sought on an ex parte basis because of the incremental harm that
5 would result to plaintiffs during the additional period of time it would take to
6 consider this request on a noticed basis.

7 All defendants were sent email notification on Thursday, March 19, 2009,
8 that the instant application would be made to the Court. (Declaration of Scott
9 Andrews ¶ 15, Ex. K.) Defendant Jason Gilliam informed plaintiffs' counsel that
10 he would be responding to the TRO application and that he and Richard Gilliam
11 would not stipulate to early discovery. (*Id.* ¶ 16.) I have not received any other
12 information about how defendants plan to respond to the application. (*Id.*)

13 To plaintiffs' knowledge, defendants do not have counsel. The address for
14 defendants Richard Gilliam and Jason Gilliam is 3426 Bahia Blanca West, Unit B,
15 Laguna Woods, California, 92637. Their telephone number is (949) 206-0081. In
16 compliance with Civil Local Rule 79-5.4(e), the address for defendant Steven
17 Bowman is Toronto, Ontario. A complete address for Mr. Bowman is available
18 upon request. Plaintiffs do not have a current telephone number for Bowman.

19 The application is based on this application, the memorandum in support
20 thereof, all documentary evidence submitted herewith, such oral argument as
21 counsel may offer, and any live testimony that the Court may entertain.

22 Plaintiffs seek an order of the Court that

23 A. Defendants and anyone acting in concert with them or on their behalf
24 ARE HEREBY RESTRAINED AND ENJOINED FROM:

25 i. Any efforts to extort consideration from Monex, including any efforts
26 to persuade Monex to pay defendants money which directly or indirectly
27 involves: (1) threats against Monex or its employees to publish in any forum

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1 or to share information about Monex with third parties, or (2) threats to
2 defame Monex or its employees, unless Monex pays defendants.

3 ii. Publishing or republishing any negative statements about Monex on
4 any website, including, but not limited to, www.MonexFRAUD.com,
5 www.youtube.com, <http://digg.com>, <http://goldismoney.info>, and
6 <http://americannepali.blogspot.com>. This part of the order requires
7 defendants to remove, from any website over which they have sufficient
8 control, all negative material about Monex that they have published or
9 republished there, and to stop using the world MonexFRAUD, all within 24
10 hours of the time this order becomes effective.

11 iii. Operating, directly or indirectly, www.MonexFRAUD.com, or other
12 websites critical of Monex. All such websites and their contents must be
13 removed from the public's access, within 24 hours of the time this order
14 becomes effective, pending the Court's determination of Plaintiffs' request
15 for a preliminary injunction.

16 iv. Disclosing or using directly or indirectly in any way any trade secret
17 documentation or other proprietary information belonging to Monex,
18 including all internal Monex documents which are not public, such as Monex
19 customer lists.

20 v. Retaining any trade secret or proprietary information referred to in the
21 last paragraph. To implement this part of the Order, defendants must
22 disclose to and return to Monex within 12 hours of entry of this Order all
23 such information and documentation within defendants' possession, or
24 within possession of anyone within defendants' control. To the extent that
25 defendants once had possession of such documentation, but no longer have
26 possession, defendants must within 12 hours also inform Monex's counsel in
27 writing and in specific and sufficient detail: (1) all efforts defendants have
28 made to re-acquire such documentation; (2) what became of such

1 documentation, including the time and date defendants lost control of the
2 documentation; and (3) who presently has possession of this documentation
3 so that Monex can take steps to recover the documentation.

4 B. This order shall be effective as soon as plaintiffs or either of them
5 properly have posted a bond in the amount of \$ _____.

6 C. This order shall expire ___ full days after it becomes effective.

7 D. Defendants are ordered to show cause why a preliminary injunction
8 should not issue, continuing the terms of the temporary restraining order until
9 judgment or dismissal.

10 E. Plaintiffs may file and serve papers in support of their request for a
11 preliminary injunction, including a memorandum of points and authorities and
12 documentary evidence, no later than ___ days before the hearing on the order to
13 show cause.

14 F. Defendants may file and serve a return to the order to show cause and
15 papers in opposition to or otherwise responding to the request for preliminary
16 injunction no later than ___ days before the hearing on the order to show cause.

17 G. Plaintiffs may file and serve papers replying to defendants' return and
18 any opposition no later than ___ days before the hearing on the order to show cause.

19 H. A hearing on the order to show cause will be held on _____,
20 2009 at ____:____ a.m./p.m., or as soon thereafter as the parties may be heard, in
21 Courtroom 10C, U.S. District Courthouse, 411 West Fourth Street, Santa Ana,
22 California.

23 I. Monex, on the one hand, and defendants, collectively, on the other
24 hand, may depose by oral examination up to three people or entities in preparation
25 for the preliminary injunction hearing. The depositions can be taken on two
26 calendar days' notice or longer so long as they occur on business days. All other
27 usual rules of deposition apply.

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J. Monex, on the one hand, and defendants, collectively, on the other hand, may serve 20 requests for production of documents and things in preparation for the preliminary injunction hearing. Responses to the requests must be served within four days or produced at the next deposition of the responding party, provided that the requests are served at least one court day before the deposition.

Dated: March 22, 2009

FARELLA BRAUN & MARTEL LLP

By: /s/ Neil A. Goteiner
Neil A. Goteiner

Attorney of Record for Plaintiffs
MONEX DEPOSIT COMPANY and
MONEX CREDIT COMPANY