

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 11-61072-Civ. Zloch**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**AMERICAN PRECIOUS METALS, LLC,**  
a Florida limited liability company,

and

**HARRY R. TANNER, JR.,** individually and as  
an owner, officer, and managing member of  
**AMERICAN PRECIOUS METALS, LLC,**

and

**ANDREA TANNER,** individually and as an  
owner, officer, and managing member of  
**AMERICAN PRECIOUS METALS, LLC,**

Defendants.

**STIPULATED PRELIMINARY INJUNCTION**

Plaintiff Federal Trade Commission (“Commission” or “FTC”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, filed a Complaint for Injunctive and Other Equitable Relief and moved for a preliminary injunction pursuant to Rule 65(b) of the Federal Rules of Civil Procedure.

The Commission and the Defendants have consented to entry of this Stipulated Preliminary Injunction. Now, therefore, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

### FINDINGS

1. The Court has jurisdiction over the subject matter of this case and jurisdiction over all parties.
2. Venue in the United States District Court, Southern District of Florida, Ft. Lauderdale Division is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).
3. There is good cause to believe that American Precious Metals, LLC, Harry R. Tanner, Jr., and Andrea Tanner (collectively “Defendants”) have engaged, and are likely to continue to engage, in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as well as various provisions of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and that the FTC is likely to prevail on the merits of this action.
4. There is good cause to believe that consumers will suffer continuing harm unless Defendants are immediately restrained by an order of this Court. The FTC’s memorandum in support of its motion for a Preliminary Injunction and the accompanying declarations and exhibits demonstrate that it is likely that Defendants have engaged in illegal activity in connection with the deceptive telemarketing of precious metals.
5. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief for consumers in the form of monetary restitution will occur from the sale, transfer, or other disposition or concealment by Defendants of their assets or documents unless Defendants are immediately restrained and enjoined by Order of this

Court. There is thus good cause for continuation of the asset freeze and the appointment of the receiver over the Receivership Defendant, as defined herein.

6. No security is required of any agency of the United States for issuance of a preliminary injunction, Fed. R. Civ. P. 65(c).

7. Balancing the equities and considering the FTC's likelihood of success on the merits, the entry of this preliminary injunction is in the public interest.

8. Defendants, by agreeing to this Order, make no admission as to the truth of Plaintiff's allegations recited above, in the TRO, or in the Complaint, or as to the relief that should be granted in this action.

#### **DEFINITIONS**

For the purposes of this Preliminary Injunction, the following definitions apply:

1. **"Asset"** or **"assets"** means any legal or equitable interest in, right to, or claim to any item of economic value in whole or in part, whether tangible or intangible, and, including, but not limited to, accounts, accounts receivables, cash, certificates of deposit, chattels, checks, contracts, credits, currency, fixtures, funds, equipment, income, inventory, instruments, investments, leaseholds, lines of credit, mail, notes, personal property, real property, revenues, securities, shares of stock, trusts, or any interest therein, whether located within or outside the United States.

2. **"Corporate Defendant"** means American Precious Metals, LLC, its wholly-owned affiliates, subsidiaries, successors, and assigns, by whatever names known.

3. **"Defendants"** means the "Individual Defendants" and "Corporate Defendant."

4. **“Document”** is synonymous in meaning and equal in scope to the terms “document” and “electronically stored information,” as described and used in Federal Rule of Civil Procedure 34(a)(1)(A).

5. **“Financial Institution”** means any insured bank, commercial bank or trust company, private banker, agency or branch of a foreign bank whether located within or outside the United States, credit union, thrift institution, broker or dealer registered with the Securities and Exchange Commission, broker or dealer in securities or commodities, whether or not registered with the Securities and Exchange Commission, investment banker or investment company, currency exchange, issuer, redeemer, or cashier of travelers’ checks, checks, money orders, or similar instruments, operator of a credit card system, insurance company, dealer in precious metals, stones, or jewels, pawnbroker, loan or finance company, licensed sender of money or other person who engages as a business in the transmission of funds, telegraph company, persons involved in real estate closings and settlements, casino, gambling casino, or gaming establishment.

6. **“Individual Defendants”** means Harry R. Tanner, Jr., and Andrea Tanner, and their successors and assigns, by whatever names known.

7. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

8. **“Person”** means an individual, organization, or other legal entity, including, but not limited to, an association, cooperative, corporation, limited liability company, organization, partnership, proprietorship, or trust or combination thereof.

9. **“Personally Identifiable Information”** means any information about an individual that can be used to distinguish or trace an individual’s identity, such as their name, address, telephone number, Social Security number, date of birth, or any other personal information which is linked or linkable to an individual.

10. **“Plaintiff”** means the Federal Trade Commission (“FTC”)

11. **“Receiver”** means David Chase and also include any deputy receivers, agents, or counsel as may be named by the Receiver.

12. **“Receivership Defendant”** means the “Corporate Defendant.”

13. **“Telemarketing”** means any plan, program or campaign that is conducted to induce the purchase of goods or services by means of the use of one or more telephones, whether or not covered by the TSR, 16 C.F.R. Part 310.

14. **“TRO”** means the Temporary Restraining Order entered by the Court in this action on May 11, 2011.

## **ORDER**

### **I. PROHIBITED BUSINESS ACTIVITIES**

**IT IS HEREBY ORDERED** that, in connection with the advertising, marketing, promotion, offering for sale or sale of any goods or services, Defendants, their officers, agents, servants, employees, attorneys, and independent contractors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, division, entity, or other device, are hereby restrained and enjoined from:

A. Misrepresenting, directly or indirectly, expressly or by implication, that:

1. Consumers are likely to earn high or substantial profits in a short time period on the precious metals sold by Defendants; or
2. The precious metals sold by Defendants are low or minimal risk investments;

B. Failing to adequately disclose to consumers, truthfully, in a clear and conspicuous manner, and before a consumer pays, material information concerning the goods or services offered, including, but not limited to:

1. The total fees, commissions, interest charges, and leverage balances that consumers are required to pay; or
2. That consumers are likely to receive equity calls that will require consumers to pay additional money or to liquidate their precious metals.

C. Violating, or assisting others in violating, any provision of the TSR, 16 C.F.R. Part 310, as presently promulgated or as it may hereinafter be amended, including, but not limited to:

1. 16 C.F.R. § 310.3(a)(2)(vi) by misrepresenting the risk, earnings potential, or profitability of the precious metals and falsely claiming that:
  - (a) Consumers are likely to earn high or substantial profits in a short time period on the precious metals sold by Defendants; and
  - (b) The precious metals sold by Defendants are low or minimal risk investments;

2. 16 C.F.R. § 310.3(a)(1)(i) by failing to disclose truthfully, in a clear and conspicuous manner, and before a consumer pays for goods and services offered, material information about the total costs to purchase or receive or the quantity of the precious metals, including, but not limited to, disclosing the total fees, commissions, interest charges, and leverage balances that consumers are required to pay;
3. 16 C.F.R. § 310.3(a)(1)(ii) by failing to disclose truthfully, in a clear and conspicuous manner, and before a customer pays for goods and services offered, all material restrictions, limitations, or conditions to purchase or receive the precious metals, including, but not limited to, that consumers are likely to receive equity calls that will require consumers to pay additional money or to liquidate their precious metals.

**II. PRESERVATION OF RECORDS AND REPORTING NEW BUSINESS  
ACTIVITY**

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

- A. Failing to create and maintain documents which, in reasonable detail, accurately and fairly reflect the receipt and use of Defendants' assets;
- B. Altering, concealing, destroying, transferring, or disposing of, in any manner, directly or indirectly, any document related to:

1. The business, business practices, or assets of Defendants;
2. The business, business practices, or assets of entities directly or indirectly under the control of Defendants; or
3. The business, business practices, or assets of entities directly or indirectly under common control with any other Defendant; and

C. Creating, operating, or exercising control over any new business entity, whether newly formed or previously inactive, without first providing Plaintiff with a written statement disclosing:

1. The name of the business entity;
2. The address and telephone number of the business entity;
3. The names of the business entity's officers, directors, principals, managers, members, and employees; and
4. A detailed description of the business entity's intended activities.

### **III. PROHIBITING RELEASE OF CUSTOMER INFORMATION OR LISTS**

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

A. Disclosing to any person financial or personally identifiable information concerning a person from whom or about whom any Defendant obtained in connection with activities alleged in the Complaint;

B. Benefitting from or using financial or personally identifiable information



concerning a person from whom or about whom any Defendant obtained in connection with activities alleged in the Complaint.

*Provided however*, Defendants may disclose financial or personally identifiable information concerning any person to the Court, law enforcement agencies, or as required by any law, regulation, or court order.

#### **IV. ASSET FREEZE**

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

A. Assigning, concealing, converting, disbursing, dissipating, encumbering, liquidating, loaning, pledging, selling, spending, transferring, or withdrawing any asset that is:

1. Owned, controlled by, or held for the benefit of any Defendant, directly or indirectly;
2. In the actual or constructive possession of any Defendant;
3. Held as a retainer or deposit for the provision of goods or services to any Defendant; or
4. Owned, controlled by, in the actual or constructive possession of, or otherwise held for the benefit of any entity directly or indirectly owned, managed, or controlled by any Defendant including, but not limited to: Tanner Enterprise Group, Inc., and Harebear, Inc.;

B. Opening or causing to be opened any safe deposit box, commercial mail box, or storage facility belonging to, for the use or benefit of, under the control of, or subject to access by any Defendant;

C. Incurring charges or cash advances on any credit card, charge card, debit card, or lines of credit issued in the name of any Defendant;

D. Obtaining a personal or secured loan that encumbers an asset of any Defendant;

E. Imposing or incurring liens or other encumbrances on an asset of any Defendant.

The assets affected by this Section shall include both existing assets and assets acquired after the effective date of this Order.

**V. DUTIES OF THIRD PARTIES AND FINANCIAL INSTITUTIONS TO PRESERVE AND PROVIDE ACCOUNTING OF DEFENDANTS' ASSETS**

**IT IS FURTHER ORDERED** that any person or financial institution that has had custody or control over an asset of any Defendant at any time since January 1, 2007 and is provided with a copy of this Order or otherwise has actual or constructive knowledge of this Order shall:

A. Hold and retain any of Defendants' assets that are within its control and prohibit Defendants from assigning, concealing, converting, disbursing, dissipating, encumbering, liquidating, loaning, pledging, selling, spending, transferring, or withdrawing any asset except:

1. As directed by further order of the Court;
2. As directed in writing by the Receiver (regarding an asset belonging to, for the use or benefit of, under the control of, or subject to access by the Receivership Defendant);
3. By written stipulation of the Plaintiff and Defendants;

B. Deny Defendants access to any safe deposit box, commercial mail box or storage facility belonging to, for the use or benefit of, under the control of, or subject to access by any Defendant;

C. Within five (5) business days after being served with a copy of this Order, provide counsel for Plaintiff and the Receiver, a certified statement setting forth:

1. The identification number of each account or asset belonging to, for the use or benefit of, under the control of, or subject to access by any Defendant;
2. The balance of each account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is received, and, if the account or other asset has been closed or removed, or more than \$1,000 withdrawn or transferred from it within the last ninety (90) days, the date of the closure or removal of funds, the total funds removed or transferred, and the name of the person or entity to whom such account or other asset was remitted;
3. The identification of any safe deposit box, commercial mail box, or storage facility belonging to, for the use or benefit of, under the control of, or subject to access by any Defendant;

D. Within five (5) business days after being served with a request, provide counsel for Plaintiff and the Receiver, copies of all documents pertaining to such account or asset, including, but not limited to, originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit

and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

**VI. SERVICE OF ORDER UPON THIRD PARTIES AND FINANCIAL INSTITUTIONS**

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including U.S. first class mail, overnight delivery, facsimile, electronic mail, or personally by agents or employees of the Plaintiff or the Receiver, by any law enforcement agency, or by process server, upon any person or financial institution that may have possession, custody, or control over any asset or document belonging to, for the use or benefit of, under the control of, or subject to access by any Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any person or financial institution shall effect service upon the entire financial institution or entity.

**VII. DEFENDANTS' CONTINUING DUTIES TO PROVIDE ACCOUNTING OF ASSETS**

**IT IS FURTHER ORDERED** that each Defendant shall:

A. Within five (5) days after service of this Order, prepare and provide to Plaintiff and the Receiver complete and accurate financial statements, on the forms attached as Attachments A and B of the TRO, disclosing all assets of Defendants and all corporations, partnerships, trusts or other entities that each Defendant owns, controls, or is associated with in any capacity, jointly or individually;

B. Within five (5) business days after service of this Order, prepare and provide to Plaintiff and the Receiver complete and accurate copies of Defendant's federal and state income tax forms, including all schedules and attachments for the three most recent filing years;

C. Immediately upon service of this Order, provide access to documents

held by persons and financial institutions located outside the United States by signing the Consent to Release of Financial Records, attached to the TRO as Attachment C; and

D. Provide copies of such other documents as Plaintiff or the Receiver may request in order to monitor Defendants' compliance with the provisions of this Order.

#### **VIII. REPATRIATION OF FOREIGN ASSETS AND DOCUMENTS**

**IT IS FURTHER ORDERED** that immediately upon service of this Order, each Defendant shall:

A. Immediately and continually take such steps as are necessary to transfer to the United States all assets and documents that are located outside the United States and belong to, are for the use or benefit of, under the control of, or subject to access by any Defendant;

B. Unless already completed pursuant to the TRO entered by this Court, within three (3) business days following entry of this Order, provide Plaintiff and the Receiver with respect to assets held on behalf of the Receivership Defendant, with a full accounting of all documents and assets that are located outside the territory of the United States of America and are held by or for Defendants or are under Defendants' direct or indirect control, jointly, severally, or individually; and

C. Hold and retain all repatriated assets and prevent disposition, transfer, or dissipation of such assets except as required by this Order.

#### **IX. NON-INTERFERENCE WITH REPATRIATION**

**IT IS FURTHER ORDERED** that Defendants, their officers, agents, servants, employees, attorneys, and independent contractors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, division, entity, or other device, are hereby

preliminarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by Section VIII of this Order, including but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time that all assets have been fully repatriated pursuant to Section VIII of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a Court Order, until such time that all assets have been fully repatriated pursuant to Section VIII of this Order.

**X. APPOINTMENT OF PERMANENT RECEIVER**

**IT IS FURTHER ORDERED** that David Chase is appointed Permanent Receiver (“Receiver”) for the Receivership Defendant, with the full power of an equity receiver. The Receiver is directed and authorized to accomplish the following:

A. Assume full control of the Receivership Defendant by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of the Receivership Defendant, including any Defendant, from control of, management of, or participation in, the affairs of the Receivership Defendant;

B. Take exclusive custody, control, and possession of all assets and documents belonging to, in the possession, custody, or under the control of, the Receivership Defendant, wherever situated.

C. Take all steps necessary to secure the business premises of the Receivership Defendant, including, but not limited to: (1) serve or file this Order; (2) complete a written inventory of the receivership assets; (3) obtain information from Defendants and employees and agents of the Receivership Defendant that is relevant to the business practices, assets, and liabilities of the Receivership Defendant; (4) photograph or video-record any or all portions of the business premises; (5) change locks or security passwords for the business premises and any safe deposit box, commercial mailbox, or storage facility belonging to, in the possession, custody, or under the control of, the Receivership Defendant; (6) disconnect or restrict access to documents or computer networks belonging to, in the possession, custody, or under the control of, the Receivership Defendant; or (7) require any person present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, and/or to demonstrate to the satisfaction of the Receiver that such person is not removing from the premises documents or assets of the Receivership Defendant. Such authority shall include, but not be limited to, the authority to order any director, officer, owner, or member of the Receivership Defendant to remove him or herself from the business premises;

D. 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;

E. Perform all acts deemed advisable by the Receiver to prevent further loss, damage, or injury to consumers, including, but not limited to, closing consumers' accounts in order to protect consumers' interests;

F. Enter into contracts on behalf of the Receivership Defendant as advisable or necessary;

G. Choose, engage, and employ accountants, appraisers, investigators, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities;

H. Make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendant prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Receivership Defendant;

I. Collect any money due or owing to the Receivership Defendant;

J. Adjust, appear in, compromise, defend, institute, intervene in, resolve, settle, or become party to such actions or proceedings in state, federal, or foreign courts that the Receiver deems necessary and advisable to preserve or recover the assets of the Receivership Defendant or to carry out the Receiver's mandate under this Order;

K. Continue and conduct the businesses of the Receivership Defendant in such manner, to such extent, and for such duration as the Receiver may in good faith deem to be necessary or appropriate to operate the businesses profitably and lawfully, using the assets of the receivership estate;

L. Take depositions and issue subpoenas to obtain documents and records pertaining to the receivership and compliance with this Order. Subpoenas may be served by agents or attorneys of the Receiver and by agents of any process server retained by the Receiver;

M. Open one or more bank accounts as designated depositories for funds of the



Receivership Defendant. The Receiver shall deposit all funds of the Receivership Defendant in such a designated account and shall make all payments and disbursements from the receivership estate from such an account;

N. Maintain accurate records of all receipts and expenditures made by the Receiver;

O. Cooperate with reasonable requests for information or assistance from any law enforcement agency, including Plaintiff; and

P. File reports with the Court on a timely basis.

**XI. DELIVERY OF RECEIVERSHIP PROPERTY**

**IT IS FURTHER ORDERED** that, immediately upon service of this Order upon them, or within such time as may be permitted by the Receiver, Defendants, or any other person or entity served with a copy of this Order, shall transfer or deliver possession, custody and control of the following to the Receiver:

A. All assets of the Receivership Defendants;

B. All documents of the Receivership Defendants;

C. All funds and other assets belonging to members of the public now held by the Receivership Defendants; and

D. All keys, codes, and passwords, entry codes, combinations to locks, and information or devices required to open or gain access to any asset or document, including, but not limited to, access to the business premises, computer servers, networks, or databases, or telecommunications systems or devices.

**XII. COOPERATION WITH THE RECEIVER**

**IT IS FURTHER ORDERED** that:

A. Defendants, their officers, agents, servants, employees, attorneys, and independent contractors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, division, entity, or other device, shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but not be limited to:

1. Providing any information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order;
2. Disclosing to the Receiver the existence and location of any asset belonging to, in the possession, custody, or under the control of, the Receivership Defendant;
3. Disclosing to the Receiver the existence and location of any document, including electronically stored information, that relates in any way to:
  - (a) The business, business practices, or assets of the Receivership Defendant; and
  - (b) The business, business practices, or assets of entities directly or indirectly under the control of the Receivership Defendant; and
4. Providing any login and password required to access any computer, electronic files, or information in any medium; and
5. Advising all persons who owe money to the Receivership Defendant that all debts should be paid directly to the Receiver.

B. Defendants, their officers, agents, servants, employees, attorneys, and

independent contractors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any affiliate, corporation, division, entity, subsidiary, or other device, are hereby restrained and enjoined from directly or indirectly:

1. Transacting any of the business of the Receivership Defendant except with the consent and under the supervision of the Receiver;
2. Failing to provide information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order;
3. Failing to disclose to the Receiver the existence and location of any asset held belonging to, in the possession, custody, or under the control of, the Receivership Defendant;
4. Failing to disclose to the Receiver the existence and location of any document, including electronically stored information, that relates in any way to:
  - (a) The business, business practices, or assets of the Receivership Defendant; or
  - (b) The business, business practices, or assets of entities directly or indirectly under the control of the Receivership Defendant;
6. Interfering in any manner with the authority or duties of the Receiver.

**XIII. RECEIVER'S REPORTS**

**IT IS FURTHER ORDERED** that the Receiver shall report to this Court, no later than sixty (60) days after the date of entry of this Order and each ninety (90) days thereafter,

regarding: (1) the steps taken by the Receiver to implement the terms of this Order; (2) the value of all liquidated and unliquidated assets of the Receivership Defendants; (3) the sum of all liabilities of the Receivership Defendants; (4) the steps the Receiver intends to take in the future to (a) prevent any diminution in the value of the assets of the Receivership Defendants; (b) pursue receivership assets from third parties; and (c) adjust the liabilities of the Receivership Defendants, if appropriate; and (5) any matters which the Receiver believes should be brought to the Court's attention. Provided, however, if any of the required information would hinder the Receiver's ability to pursue receivership assets, the portions of the Receiver's report containing such information may be filed under seal and not served on the parties.

#### **XIV. COMPENSATION OF THE RECEIVER**

**IT IS FURTHER ORDERED** that the Receiver, and all persons or entities retained or hired by the Receiver as authorized under this Order, shall be entitled to reasonable compensation for the performance of duties undertaken pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them from the assets now held by or in the possession or control of, or which may be received by, the Receivership Defendant. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such compensation, with the first request due prior to sixty days after the date of this Order. The Receiver shall not increase the fees or rates used as the bases for such fee applications without prior approval of the Court.

#### **XV. ACCESS TO BUSINESS OFFICES AND RECORDS**

**IT IS FURTHER ORDERED** that the Receiver shall allow representatives of the Commission reasonable access to all business premises within the scope of this Order and to all premises where any of the Defendants' business records may be located. The Commission and

the Receiver, and their representatives, agents, and assistants, are authorized to remove documents from such premises in order that they may be inspected, inventoried, and/or copied, following which they will be returned to the premises from which they were removed.

Furthermore, the Receiver shall allow Defendants reasonable access to the premises and business records of the Receivership Defendants within his possession for the purpose of inspecting and copying materials relevant to this action. The Receiver shall have the discretion to determine the reasonable time, manner, and conditions of such access.

**XVI. NON-COMPLIANCE WITH TRANSFERS OR DELIVERY**

**IT IS FURTHER ORDERED** that, in the event any person or financial institution fails to transfer or deliver any asset or document, or otherwise fails to comply with any provision of this Order requiring the delivery of assets, documents, or other things, the Receiver may file an ex parte affidavit of non-compliance regarding the failure. Upon the filing of the affidavit, the Court may authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or the sheriff or deputy of any county or other federal or state law enforcement officer to seize the asset, document, or other thing and deliver it to the Receiver.

**XVII. CREDIT REPORTS**

**IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports concerning any of the Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports are requested shall provide them to Plaintiff.

**XVIII. STAY OF ACTIONS**

**IT IS FURTHER ORDERED** that:

A. Except by leave of this Court, during the pendency of the Receivership ordered herein, the Receivership Defendant and all customers, principals, investors, creditors, stockholders, lessors, and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of the Receivership Defendant, and all others acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs, constables, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees be and are hereby stayed from:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
3. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; or
4. Doing any act or thing whatsoever to interfere with the Receiver's taking custody, control, possession, or management of the assets or documents subject to this receivership; or to harass or interfere with the Receiver in

any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Defendant.

**B. This Section does not stay:**

1. The commencement or continuation of a criminal action or proceeding;
2. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
3. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
4. The commencement of any action by the Secretary of the United States Department of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five (5) or more living units; or
5. The issuance to a Receivership Defendant of a notice of tax deficiency.

**XIX. MONITORING COMPLIANCE WITH THIS ORDER**

**IT IS FURTHER ORDERED** that, for purposes of monitoring compliance with Section I of this Order, the FTC is authorized to use all lawful means, including, but not limited to, posing as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice.

**XX. BANKRUPTCY PETITIONS**

**IT IS FURTHER ORDERED** that, in light of the appointment of the Receiver, the Receivership Defendants are hereby prohibited from filing a petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. without prior permission of this Court.

**XXI. PROOF OF DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to their officers, agents, servants, employees, attorneys, and independent contractors, and any affiliated businesses, and other persons and entities subject in any part to their direct or indirect control. Within five (5) business days of receipt of this Order, Defendants must submit to counsel for Plaintiff a truthful sworn statement identifying those persons and entities to whom this Order has been distributed.

**XXII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that each Individual Defendant, within five (5) business days of entry of this Order, must submit to the Plaintiff a truthful sworn statement acknowledging having received and read this Order.

**XXIII. CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF**

**IT IS FURTHER ORDERED** that for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Dama J. Brown  
Sana Coleman Chriss  
Harold Kirtz  
Federal Trade Commission  
225 Peachtree Street NE, Suite 1500  
Atlanta, Georgia 30303  
Facsimile number (404) 656-1379  
Email: dbrown1@ftc.gov; schriss@ftc.gov; hkirtz@ftc.gov



**XXIV. RETENTION OF JURISDICTION**


**IT IS FURTHER ORDERED** that the Court shall continue to retain jurisdiction of this matter for all purposes.

**IT IS SO ORDERED**, this 24<sup>th</sup> day of MAY, 2011, at 3:05 o'clock  
a.m./p.m.





United States District Judge

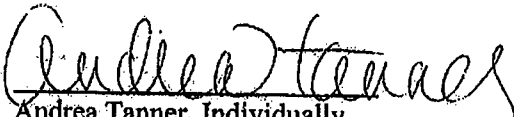
AGREED AS TO FORM AND CONTENT:

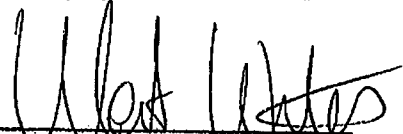
  
\_\_\_\_\_  
Dana J. Brown

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Plaintiff's Attorney  
Federal Trade Commission  
225 Peachtree Street, NE, Suite 1500  
Atlanta, GA 30303  
Tel. (404) 656-1361  
Fax. (404) 656-1379  
[dbrown1@ftc.gov](mailto:dbrown1@ftc.gov)

  
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American Precious Metals, LLC  
by Harry R. Tanner, Jr., President

  
\_\_\_\_\_  
Harry R. Tanner, Jr., Individually  
and as Owner, Officer, and  
managing member of American Precious Metals, LLC

  
\_\_\_\_\_  
Andrea Tanner, Individually  
and as Owner, Officer, and  
Managing Member of American Precious Metals, LLC

  
\_\_\_\_\_  
Marc A. Wites, counsel for Defendants  
Lighthouse Point, FL 33064  
Wites and Kapetan, P.A.

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Fax. (954) 428-3929  
[mwites@wklawyers.com](mailto:mwites@wklawyers.com)  
Attorney for Defendants