Corporation and Qchex.com ("Neoviyy); G7 Productivity Systems, Inc., d/b/a Qchex.com ("G7'3; James M. Danforth ("Danforth'); and Thomas Villwock ("Villwock") (collectively, "Defendants"). On September 19,2006, the Commission filed a Complaint for Injunctive and Other Equitable Relief in this matter pursuant to Section 13(b) of the Federal Trade Commission Act ('FTC Act"), 15 U.S.C. § 53@), and moved for a temporary restraining order and for an order to show cause why a preliminary injunction should not be granted pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Court, having been advised that the parties have stipulated hereto and having considered the pleadings, declarations, exhibits, and memoranda of law filed in this action, finds that:
1. This Court has jurisdiction over the subject matter of this case, and there is good
cause to believe that it has jurisdiction over all parties hereto.
2. Defendants, by agreeing to this Order, make no admissions as to the truth of
Plaintiffs allegations. In addition, the stipulation and entry of this Order is not to be construed or deemed a waiver of any claims or defenses that may be raised in this action.
3. There is good cause to believe that Defendants have engaged and are likely to
engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. 5 45(a), and that Plaintiff is therefore likely to prevail on the merits of this action.
4. Weighing the equities and considering Plaintiffs likelihood of ultimate success
on the merits, a temporary restraining order restraining Defendants' conduct and providing other equitable relief is in the public interest.
5. Fed. R. Civ. P. 65(c) does not require security of the United States or an agency
thereof for the issuance of a restraining order.

Page 2 of 12

7. "Financial institution" means any bank, trust company, savings and loan
association, credit union, or stock brokerage.
8. "Financial account" or "account at a financial institutiony' means any account,
including but not limited to any deposit account, checking account, savings account, money market account, transaction or asset account, credit account, or other extension of credit at a financial institution.
9. "Financial account information" means individually identifiable information
from or about a person that is related to such person's financial account(s), including but not limited to: (a) checking account information, including the ABA routing number, account number, and check number; (b) savings account information, including the ABA routing number, account number, and check number; (c) a person's first and last name, a business name, a postal address, a telephone number, or an email address or other online contact information, from or about any person that is combined with (a) or (b) above.
10. The words

or has the authority of the account holder to draw funds fiom the financial account on which the check is to be drawn.
PROVIDED, however, that, Defendants will not be in violation of this Section if Defendants, prior to creating or delivering any check for any person, perform one of these two verification procedures:
A. Perform "Micro-De~osit Verification" by:
1. Requiring the person requesting the check to confirm access to the
financial account on which the person wishes to request checks by making two deposits between $0.01 and $0.99 each in randomly generated amounts into such financial
account;
2. Requiring the person to report back to Defendants, either in writing or
electronically, the amount of each deposit;
3. Confirming that the two numbers provided by that person match the
amounts of the two deposits made by Defendants into the person's financial account; and
4. At least ten (10) days before creating or delivering the first check drawn
on a particular financial account, mailing a written statement to the mailing address provided by the person and listed on the check stating that a check will be created to be drawn on the financial account listed on the check and delivered to a payee, providing the payee's name, date, amount of the check, a working telephone number for persons to use to contact Defendants during regular business hours regarding the check; or
B. Perform "Financial Institution Verification" by:
1. Obtaining written consent fiom the person requesting the creation or
delivery of the check to contact the financial institution that holds the financial account on which the check is to be drawn;

Page 5 of 12

2. Contacting that financial institution and confirming with documentation
that the name, address, financial account number, and signature match the name, address, financial account number and signature that the financial institution has on file for the financial account on which the check is to be drawn; and
3. At least ten (10) days before creating or delivering the first check drawn
on a particular financial account, mailing to the address

C. Failing to suspend use of any of Defendants' products or services upon notice
that the product or service is alleged to be involved in the unauthorized use of a person's financial account information. After suspending use of the product or service, Defendants shall conduct a reasonable investigation of the allegation that Defendants' products or services have resulted in the unauthorized use of a person's financial account information. Defendants shall permanently suspend access by the Qchex account holder to any of Defendants' products or services if such product or service was involved in the unauthorized use of a person's financial account information. Defendants shall complete their investigation of and respond to persons making such allegations within five (5) business days after Defendants have become aware of them. In responding to such allegations, Defendants shall use either the same method that the person alleging such unauthorized use used to cont8Tj�0 Tc -39 TeitDefendants shall

holde3-02 an8 0 Td�(to)Tj�1.1.578i8

the his or her financial account suspended or closed if the person suspects unauthorized activity on his or her financial account.
111.
MAINTENANCE OF CURRENT BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendants, their officers, agents, servants,
employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined fi-om:
A. Failing to create and maintain documents that, in

C.

8

IV.
MONITORING OF COMPLIANCE

IT IS FURTHER ORDERED that during the pendency of this litigation, Plaintiff FTC
is authorized to monitor Defendants' compliance with this Order. For purposes of the compliance monitoring authorized by this Section, the FTC may use representatives posing as members of the public to test Defendants' practices with regard to Section I and II of this Order. When posing as members of the public, the FTC's representatives are authorized to communicate directly with Defendants, Defendants' employees, any entity managed or controlled in whole or in part by any of Defendants, or any entity acting as an agent of any of Defendants, without the necessity of identification, prior notice, or authorization by Defendants or their counsel.

If the FTC should detect an alleged violation of this Order, it shall notify counsel for Defendants in writing. Defendants shall have five (5) business days from receipt of such notice to respond to the FTC in writing and state whether Defendants will cure the alleged violation or dispute that the observed condition exists or is a violation. If Defendants agree to cure, they shall have ten (10) business days from receipt of the FTC's written notice to effect such cure and, if at the end of the ten days, the FTC is dissatisfied, the FTC may move this Court for corrective action. If Defendants dispute that the observed condition exists or is a violation and the FTC is dissatisfied with Defendants' explanation, the FTC may move this Court for corrective action.
v.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants shall: (A) immediately provide a copy
of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, salesperson, agent, attorney, and representative of

Page 9 of 12

any defendant; and (B) within seven (7) days from the date of entry of this Order, provide the Commission with a sworn statement detailing the manner in which Defendants have complied with this provision of the Order, which shall include the names and addresses of each such person or entity who received a copy of the Order.
VI.
DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein
shall expire on h/~b/o6 ,2006 at 1159p.m., unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.
VII.
ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Federal Rule of Civil Procedure 65, that

each Defendant shall appear before this Court on the 3 day of &~d@'y ,2006, at
zJ4& o'clock &.m., at the United States District Court House, Courtroom , Southern District of California, to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the complaint against Defendants, enjoining them fkom further violations of Section 5(a) of the FTC Act, 15 U.S.C. 5 45(a) and imposing such additional relief as may be appropriate.
PROVIDED that, if any party to this action intends to present the testimony of any
witness at the hearing on a preliminary injunction in this matter, that party shall, at least14 days prior to the scheduled date and time of hearing, file with this Court and serve on all other parties a statement disclosing the name, address, and telephone number of any such witness, and either a summary of the witness' expected testimony, or the witness' affidavit revealing the substance of such witness' expected testimony. The parties must also file with this Court and serve on all

Page 10 of 12

IX.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED, that this Court shall retain jurisdiction of this matter fc
all purposes.

IT IS SO ORDERED, this 22 day of G~4h/47/ ,2006 at ,v

San Diego, California.

William Q. Hayes
United States District Judge
District of Southern California

9-22-66 Dated:

Dated: i- ~r -66

- 6d

Dated: 3-zz-6G

Dated:
Attorne for Defendants

Neovi, /!Ic., G7 Productivity Systems, Inc.,

James M. Danforth. and Thomas Villwock db4/$!' ,#$#k Dated: S&, aa , aoob

~ ebordMatties

Page 12 of 12