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Development Group, LLC, CJ Seminar Holdings, LLC,
Zurixx Financial, LLC, Christopher A. Cannon,
James M. Carlson, and Jeffrey D. Spangler*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL TRADE COMMISSION, and UTAH
DIVISION OF CONSUMER PROTECTION,

Plaintiffs,

vs.

ZURIXX, LLC, et al.

Defendants.

**NOTICE OF FILING REDACTED
VERSION OF
EXHIBIT A TO DEFENDANTS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT AS TO RELIEF UNDER
SECTION 13(b) AND BODA**

Case No.: 2:19-cv-00713-DAK-DAO

Judge Dale Kimball

Magistrate Judge Daphne A. Oberg

On May 12, 2021 Defendants filed their Motion for Partial Summary Judgment as to Relief Under Section 13(b) an BODA (“Motion”) in the above-entitled matter. Defendants’ inadvertently filed an unredacted version of Exhibit A to the Motion which contains personal

contact information for certain third parties. Exhibit A to the Motion has now been sealed by the Office of the Court Clerk and is not publically available. A redacted version of Exhibit A to the Motion is filed herewith.

DATED this 19th day of May, 2021.

/s/ Z. Ryan Pahnke

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RAY QUINNEY & NEBEKER P.C.

Eric G. Benson
POTTER HANDY, LLP

D. Loren Washburn
ARMSTRONG TEASDALE, LLP

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May, 2021, I caused a true and correct copy of the foregoing **NOTICE OF FILING REDACTED VERSION OF EXHIBIT A TO DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO RELIEF UNDER SECTION 13(b) AND BODA** to be filed electronically with the Court, which provides notice of the electronic filing to counsel of record in this matter.

/s/ Z. Ryan Pahnke _____

1567243

EXHIBIT A

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL TRADE COMMISSION, and

UTAH DIVISION OF CONSUMER
PROTECTION,

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vs.

ZURIXX, LLC, et al.

Defendants.

Case Number: 2:19-cv-00713-DAK-DAO

PLAINTIFFS' SUPPLEMENTAL INITIAL DISCLOSURES UNDER FRCP 26(a)(1)

Pursuant to Federal Rule of Civil Procedure 26(a)(1) and the Scheduling Order entered by the Court on June 22, 2020 (ECF No. 151), Plaintiffs Federal Trade Commission (“FTC”) and Utah Division of Consumer Protection (“Division”) make the following Supplemental Initial Disclosures. Plaintiffs expressly reserve the right to clarify, revise, or correct any or all of the following at any time. Pursuant to Federal Rule of Civil Procedure 26(e), Plaintiffs will supplement these disclosures as necessary.

I. DISCLOSURES PURSUANT TO FRCP 26(a)(1)(A)(i)

Plaintiffs are aware of numerous individuals likely to have discoverable information that Plaintiffs may use to support their claims against Defendants. Plaintiffs are engaged in discovery to obtain additional information concerning the identities of individuals with information that may support Plaintiffs’ claims. Accordingly, Plaintiffs make the following disclosures based upon information reasonably available to them at this time and will amend the disclosures upon discovery of additional information. Individuals likely to have discoverable information are identified below:

A. Consumers

Consumers who have attended Zurixx’s free events and 3-day workshops, or who have purchased Zurixx’s advanced packages and coaching or mentoring sessions are each likely to have discoverable information that Plaintiffs may use to support their claims, including without limitation information about Zurixx’s deceptive earnings claims and other misrepresentations, the failure of the company’s flipping strategies to produce thousands of dollars in income while requiring little time or effort to execute, the unavailability of 100% funding for customers’ real estate deals, the undisclosed terms of the company’s refund policy, and the failure of the Defendants to provide consumers with required BODA disclosures.

1. Consumer Declarants

These consumers include without limitation the following individuals who submitted declarations in support of Plaintiffs’ TRO Motion:

Jessica Anderson

[REDACTED]

Cassandra Birocco

[REDACTED]

Kelly Campbell

[REDACTED]

DeAnn Dutton

[REDACTED]

William Eberhard

[REDACTED]

David Elliott

[REDACTED]

Kathleen Ertmer

[REDACTED]

Christopher Fenrich

[REDACTED]

Corina Ferrer

[REDACTED]

Richard John

[REDACTED]

Kathy Johnson

[REDACTED]

Thomas Kimura

[REDACTED]

Karl Arthur King

[REDACTED]

Tzachi Litov

[REDACTED]

Laurie Majewski

[REDACTED]

Norma Martinez

[REDACTED]

Catherine Murry

[REDACTED]

Jerry Douglas Purcell

[REDACTED]

Susan Rowe

[REDACTED]

John T Sakevich

[REDACTED]

Tony To

[REDACTED]

Audra Turner

[REDACTED]

Carolyn Vilela

[REDACTED]

Andrew Ziebro

[REDACTED]

2. *Additional Consumers Whose Complaints Are Within Plaintiffs' Possession*

Additional consumers who may have discoverable information have submitted complaints to Plaintiffs FTC and Division in various forms. Many of these complaints against Zurixx are stored in the FTC's Consumer Sentinel database. Consumer Sentinel is the FTC's central consumer complaint database. It includes consumer complaints mailed to the FTC, entered on the FTC's web site (www.ftc.gov), and telephoned to the FTC (877-FTC-Help). The Consumer Sentinel database also includes complaints forwarded by or entered directly into the database by a number of other law enforcement authorities such as state attorneys general, and consumer protection organizations around the world, such as Better Business Bureaus.

3. *Consumers Identified in Zurixx's Customer Service Database*

In addition to the consumers listed above, numerous other consumers who are likely to have discoverable information are identified in Zurixx's customer service database, including without limitation the interfaces known as the "Sugar database." Plaintiffs have obtained access to this database from the Receiver.

B. Defendants and Entities Related to Defendants

Each individual Defendant is likely to have discoverable information that Plaintiffs may use to support their claims, including without limitation information about the individual and corporate Defendants' business operations, Defendants' policies and procedures, the relationships among Defendants, Defendants' finances, each individual Defendant's control and knowledge of the corporate Defendants' business operations, and Defendants' interactions with law enforcement and regulatory authorities. Corporations, limited liability companies, partnerships, and other entities owned or controlled by, or formerly owned or controlled by Defendants, and current and former officers, owners, managers, trustees, or beneficiaries of such entities are also likely to have discoverable information that Plaintiffs may use to support their claims.

C. Defendants' Officers, Employees, Independent Contractors, Consultants, Business Partners, Experts, and Outside Vendors

Employees of Defendants and entities controlled by Defendants, Defendants' independent contractors, consultants, business partners, experts, and outside vendors are likely to have information that Plaintiffs may use to support their claims, including without limitation information about the individual and corporate Defendants' business operations, Defendants' policies and procedures, the relationships among Defendants, Defendants' finances, each individual Defendant's control and knowledge of the corporate Defendants' business operations, and Defendants' interactions with law enforcement and regulatory authorities. These individuals and entities, and their contact information known to Plaintiffs, include without limitation those listed in James Carlson's Affidavit, which is Attachment A.

In addition, Plaintiffs are aware that Defendants did business with the following companies and individuals that are not listed in Attachment A.

Association for Talent Development

BDO USA, LLP
1302 Avenida Juan Ponce de León
Santurce, Puerto Rico 00907
330 North Wabash Avenue
Chicago, Illinois 60611

Carla Jean Reyes, as Trustee of the Sofia Reyes Descendants Trust

Chuckanut Bay Investments, LLC
2321 Rosecrans Ave Ste 3225
El Segundo, California 90245-4982

Economics Partners LLC
1999 Broadway, Suite 3250
Denver, Colorado 80202

Equimine

Lani M. Pollock
217 42nd St
Manhattan Beach, California 90266

Richardson Law Group, PC
2321 Rosecrans Ave Ste 3225
El Segundo, California 90245-4982

Peczuh Printing
355 East 100 South
Price, Utah 84501

Social Revenue Marketing
167 Calle 25 De Julio
Guanica, Puerto Rico 00653

Sofia Reyes Descendants Trust

The Receiver in this matter may also have contact information for the foregoing individuals and entities.

D. Defendants' Accountant(s)

Defendants' accountants are likely to have discoverable information that Plaintiffs may use to support their claims, including without limitation information about the Defendants' business operations, Defendants' policies and procedures, the relationships among Defendants, Defendants' finances, individual Defendants' control and knowledge of the corporate Defendants' business operations, and Defendants' interactions with law enforcement and regulatory authorities. Plaintiffs are currently aware of the following accountants that provided services to the Defendants:

Squire & Company, PC
Dwayne Asay
1329 South 800 East
Orem, UT 84097

LLM&D
Luis Lomba
165 Ponce de Leon Ave
2nd Floor
San Juan Puerto Rico, PR 00917-1233

E. Financial Institutions, Entities Holding Assets and Entities with Possible Knowledge Regarding Assets

Financial institutions used by Defendants, and other entities or individuals holding assets of Defendants or records of assets held by Defendants, such as those identified below, are likely to have discoverable information that Plaintiffs may use to support their claims, including without limitation information about the financial operations of the corporate Defendants, the assets and liabilities of the Defendants, the financial relationship between the corporate Defendants and each individual Defendant, and the individual Defendants' control and knowledge of the corporate defendants' activities. The identities and contact information of such financial institutions and other asset holders and their employees and agents are in the possession of the Defendants.

F. Defendants' Attorneys

Defendants' attorneys and their employees and agents are likely to have discoverable information that Plaintiffs' may use to support their claims, including without limitation information about the Defendants' business operations, Defendants' policies and procedures, the relationships among Defendants, Defendants' finances, each individual Defendant's control and knowledge of the corporate Defendants' business operations, and Defendants' interactions with law enforcement and regulatory authorities. Such attorneys include without limitation those listed in James Carlson's Affidavit, which is Attachment A.

G. Individual Defendants' Relatives, and Spouses

During their investigation and after litigation commenced, Plaintiffs became aware of a number of business associates of one or more of the individual Defendants. These business associates may have discoverable information. Plaintiffs are providing contact information where they have it. However, Defendants are in a better position to know the contact information for their business associates because they either did business with them or are related to them. Attachment A contains contact information for various individuals and entities, some which are Defendants' business associates.

In addition, Defendants' spouses or companions (Leah Gonzalez and Stephenie Spangler), ex-spouses (Mary Cates Carlson and Jennifer Cannon) and relatives (e.g., Hunter Cannon, Eric Carlson, Niclas Carlson, Rylee O'Laughlin, Lacie Spangler) may have discoverable information.

H. Plaintiffs' Staffs

Plaintiffs' investigators and other staff have discoverable information that Plaintiffs may use to support their claims, including without limitation information about the Defendants' business operations, Defendants' policies and procedures, the relationships among Defendants, Defendants' finances, individual Defendants' control and knowledge of the corporate Defendants' business operations, and Defendants' interactions with law enforcement and regulatory authorities.

Current and former FTC investigators Christine Barker, Yasser Dandashly, Diana Shiller, Kelle Slaughter, and Darren Wright, and paralegals Maria Bazan and Amber Howe, have investigated Defendants and their business practices. Communications with these individuals should be made via FTC counsel.

Current and former Utah DCP investigators, including without limitation Michael Pitts, Nate Kanbe, Adam Watson, Glen Minson, Blake Young, Robert Porter, Holt Terburg, Steve Petersen, and Spencer Heward, and commerce analysts Leigh Veillette and Daniel Larsen, have investigated Defendants and their business practices. Furthermore, Utah DCP licensors, including without limitation Marcia Corak, have reviewed Defendants' telemarketing applications. Communications with these individuals should be made via Division counsel.

I. Non-Consumer Declarant

Plaintiffs' expert, whose contact information is listed below, also has discoverable information that Plaintiffs may use to support their claims:

Teo Nicolais, President
Nicolais, LLC
7675 West 14th Avenue, Suite 204
Lakewood, Colorado 80214

In addition to serving as an expert, Mr. Nicolais attended one of Defendants' 3-day workshops, and he has personal knowledge of, among other things, representations made by Defendants' personnel during that workshop.

II. DISCLOSURES PURSUANT TO FRCP 26(a)(1)(A)(ii)

Plaintiffs have documents and data compilations ("documents") in their possession, custody, or control that they may use to support their claims against Defendants. These documents include without limitation the following:

A. Consumer Declarations and Complaints

As discussed in Section I.A above, both before and after September 30, 2019, Plaintiffs FTC and Division have received complaints from consumers regarding Defendants' business practices. Plaintiffs have obtained declarations from some of those consumers, and they filed those declarations in support of their Motion for *Ex Parte* Temporary Restraining Order.

B. Documents Obtained Through the October 2019 Immediate Access

During the October 2019 immediate access, the FTC obtained hard-copy documents and electronically stored information from the Defendants' business premises in Cottonwood Heights, Utah. These hard-copy documents and electronically stored information are in the FTC's possession, and they are also available from the Court-appointed Receiver.

The hard-copy documents in the FTC's possession include without limitation those taken from the offices and cubicles of Shane Andrus, Carter Brown, Cristopher Cannon, James Carlson, Denise Easter, Brett Ehlers, Jeremy Hymas, Janis Kershaw, Matt Magistro, Balaji Mudliar, Sean Mangold, Jeffrey Spangler, Ann Rebentisch, and Andrew Way. Other hard-copy documents were copied from the desk of the receptionist and from file drawers in the middle of the Executive Suite.

The electronically stored information in the FTC's possession includes without limitation documents from the following custodians, drives, and folders: 4TB Seagate, Shane Andrus, Cristopher Cannon, James Carlson, jamesmichaelcarlson@gmail.com, Denise Easter, Janis Kershaw, Jeffrey Spangler, Targeted Emails, Targeted Shares, and Uriel Canterero.

The FTC also obtained, as a result of the immediate access, copies of certain of Defendants' telesales and coaching recordings.

B. Documents Produced by Defendants Pursuant to the TRO or Stipulated Preliminary Injunction

Defendants produced financial statements and various income tax returns. In light of privacy concerns, Plaintiffs will not provide any individual Defendant's financial statements and tax returns to other parties without written authorization.

C. Documents Produced by Non-Parties

The FTC has been receiving documents in response to third-party subpoenas served during the course of this litigation. These third parties include without limitation the following:

Christina Anstead and Tarek El Moussa;

Electronic Retailing Self-Regulation Program;
Equimine;
Mina Hawk;
Hilary Farr Entertainment Inc.;
Karen Laine;
Property Farm & Doug Hopkins;
David Seymour;
Peter Souhleris; and
Squire & Company.

The FTC also has received documents or responses from non-parties that were produced in response to the TRO or Stipulated Preliminary Injunction. Finally, the FTC received and has in its possession documents that were produced voluntarily by certain non-parties, including without limitation the following:

American Express;
Banco Popular;
Bank of America;
Brinker Capital;
Commercial Bank of California;
Chesapeake Bank;
Complete Merchant Solutions, LLC;
Electronic Merchant Systems;
Equity Trust Company;
Fidelity Investments;
First Bank;
JP Morgan;
Lincoln Financial Group;
MassMutual;
Merrick Bank;
Mountain America Credit Union;
PayPal;
PaySafe;
QualPay, Inc;
Total System Services, LLC;
UBS Financial Services, Inc.;
Wells Fargo Bank, NA;
Whittenburg Wealth Partners; and
Zions Bank.

D. Documents Provided by the Receiver

The FTC received certain of the Defendants' documents and/or data from the Receiver, including without limitation tax and financial documents, certain of corporate Defendants' organizational documents, and access to Defendants' PBX, which contains recordings of certain of Defendants' telesales and coaching calls. The FTC also recently obtained, through the Receiver, the contents of server containing emails from a number of Zurixx email accounts.

In addition to the documents noted above, the Receiver may have other documents, including without limitation recordings of events that took place after the TRO was entered; those documents, however, are not in the FTC's possession, custody, or control.

E. Documents in the Possession of the Division

The Division also has in its possession documents obtained or created during the course of its investigation, including without limitation audio recordings, images and photographs, notes, materials, captures of web pages, electronic correspondence, telephone scripts, spreadsheets, and contracts. These documents further include documents obtained or created following the Court's issuance of the TRO (e.g., audio recordings, notes, and materials from Defendants' events in Las Vegas, Nevada, and San Mateo, California, which occurred during the week of October 7, 2019).

III. DISCLOSURES PURSUANT TO FRCP 26(a)(1)(A)(iii)

Plaintiffs seek equitable redress and restitution for consumers and disgorgement of Defendants' ill-gotten gains. Such redress, restitution and disgorgement will be based on the total amount consumers have paid Zurixx for real estate products and services, less any refunds and chargebacks Zurixx already provided to consumers with respect to those products and services. At this early point in the litigation, Plaintiffs estimate the total amount of unreimbursed consumer injury to be approximately \$530 million.

In addition, the Division seeks civil penalties in an amount to be determined by the Court after further development of the record of the Defendant's violations of the Utah Consumer Sales Practices Act and the Business Opportunity Disclosure Act, and costs.

Plaintiffs also seek relief, including without limitation damages, for Defendants' violations of the Telemarketing Sales Rule. The proper measure(s) and amount(s) of such damages, will be determined by the Court after further development of the record of Defendants' TSR violations.

July 23, 2020.

/s/ Joshua Doan
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CERTIFICATE OF SERVICE

I hereby certify that I have, on July 23, 2020, caused the Plaintiffs' Supplemental Initial Disclosures to be served by email on the following:

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