

COPY

IN THE CIRCUIT COURT OF TIPTON COUNTY, TENNESSEE  
FOR THE TWENTY-FIFTH JUDICIAL DISTRICT, AT COVINGTON

STATE OF TENNESSEE *ex rel.* HERBERT H. )  
SLATERY III, Attorney General and Reporter, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
McDIVITT MOTORS, LLC, a domestic )  
limited liability company, )  
 )  
and )  
 )  
MARTIN KEITH McDIVITT, )  
 )  
Defendants. )

Case No. 7670

JURY DEMAND

FILED  
JUL 02 2019  
MIKE FORBESS, CLERK *RE*

**[PROPOSED] EX PARTE TEMPORARY RESTRAINING ORDER WITH ASSET  
FREEZE, APPOINTMENT OF A RECEIVER, AND OTHER EQUITABLE RELIEF,  
AND ORDER SETTING PRELIMINARY INJUNCTION HEARING  
[FILED UNDER SEAL]**

Plaintiff State of Tennessee (State), by and through its Attorney General, Herbert H. Slatery III, having filed its Civil Enforcement Complaint in this matter pursuant to the Tennessee Consumer Protection Act of 1977 (TCPA), Tenn. Code Ann. § 47-18-108, and the Uniform Fraudulent Transfer Act (UFTA), Tenn. Code Ann. § 66-3-301, and having applied *ex parte* for a Temporary Restraining Order pursuant to the TCPA, the UFTA, and Rule 65 of the Tennessee Rules of Civil Procedure, and the Court, having considered the Complaint, declarations, exhibits, memorandum of law, and other submissions filed in support therewith, now being fully advised in the premises, finds as follows:

## FINDINGS

1. This Court has jurisdiction of the subject matter of this case, and there is good cause to believe the Court will have jurisdiction over all parties hereto and that venue in this district is proper.

2. There is good cause to believe that Defendants McDivitt Motors, LLC, and Martin Keith McDivitt have engaged in and are likely to engage in acts and practices that violate the TCPA and the UFTA, and that the State is likely to prevail on the merits of this action.

3. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of the TCPA and the UFTA unless Defendants are restrained and enjoined by Order of this Court.

4. The State, in its complaint, TRO Motion, supporting evidence, and argument of counsel, has shown that it is likely to succeed on the merits of its claims that Defendants engaged in deceptive trade practices that are declared unlawful by the TCPA.

a. The evidence presented to the Court shows that Defendants make affirmative material misrepresentations to consumers and withhold material information from consumers regarding their purchases of motor vehicles from Defendants.

b. The State is likely to prove its allegations that Defendants (1) make express material misrepresentations that motor vehicles are "new," when such are not the case; (2) make implied material misrepresentations that Defendants are legally authorized to sell "new" motor vehicles when such is not the case; (3) fail to deliver proper title to motor vehicles; (4) fail to disclose the fact that, contrary to common practice, consumer expectation, and the understanding of the parties, Defendants will not pay off vehicles that are traded in with the purchase of a vehicle from Defendants; (5) directly and/or

indirectly promote, sell, and offer for sale “new” motor vehicles when it was unlawful for Defendants to sell such vehicles in this state because they lack proper licensure; (6) make express material misrepresentations in the Manufacturer’s Statement of Origin by altering the Statement to change the name of the first purchaser of a motor vehicle; (7) fail to sell vehicles to Tennessee consumers as advertised or promoted; (8) make express material misrepresentations that a refinancing agreement has more favorable loan terms than a prior agreement when such is not the case; and (9) fail to disclose that Defendants would not pay off a pre-existing loan with the proceeds of a refinance loan.

c. Each of these practices constitute deceptive trade practices that are declared to be unlawful under the TCPA. Tenn. Code Ann. § 47-18-104.

5. The State, in its complaint, TRO Motion, supporting evidence, and argument of counsel, has shown that it is likely to succeed on the merits of its claims that Defendants have made fraudulent transfers in violation of the UFTA.

a. The evidence presented to the Court shows that Defendants made repeated transfers of personal property when they were functionally insolvent, and that Defendants made transfers with the actual intent to defraud any creditor.

b. For example, Defendants consistently wrote checks to purchase motor vehicles while their bank accounts were consistently running a negative balance. Because these checks were essentially worthless, Defendants did not receive “a reasonably equivalent value in exchange for the transfer.” Tenn. Code Ann. § 66-3-305(a)(2). Further, because Defendants wrote these checks while their bank account balances were consistently negative, Defendants “[i]ntended to incur, or believed or reasonably should have believed that [they] would incur, debts beyond [their] ability to pay as they became

due.” Tenn. Code Ann. § 66-3-305(a)(2)(B). Because these transfers were made under these circumstances, they are “fraudulent as to a creditor.” Tenn. Code Ann. § 66-3-305(a).

c. In addition, Defendants also consistently received cash or loan proceeds from consumers or financial institutions in exchange for vehicle that they purchased with bad checks. In these transactions, Defendants did not receive “a reasonably equivalent value in exchange for the transfer” and Defendants “intended to incur, or believed or reasonably should have believed that [Defendants] would incur, debts beyond [their] ability to pay as they became due.” Tenn. Code Ann. § 66-3-305(a)(2). Therefore, these transfers are “fraudulent as to a creditor.” Tenn. Code Ann. § 66-3-305(a).

d. Further, Defendants made repeated transfers of bank account assets between each other that run afoul of the UFTA. The State, in the evidence presented to the Court, has shown dozens, if not hundreds, of transfers of large sums of money between a checking account operated by McDivitt Motors (ultimately, Martin McDivitt) at one bank and a checking account operated by Martin McDivitt at a different bank. In these transactions, McDivitt Motors and Martin McDivitt are insiders of one another. Tenn. Code Ann. § 66-3-305(b)(1). Moreover, Martin McDivitt “retained possession or control of the property” transferred between these two accounts. Tenn. Code Ann. § 66-3-305(b)(2). And McDivitt Motors “was insolvent” at the time many of the transactions occurred. Tenn. Code Ann. § 66-3-305(b)(9). Based on these facts, and the entire record before the Court, the Court finds that these transactions were made “[w]ith actual intent to hinder, delay, or defraud any creditor of the” Defendants. Tenn. Code Ann. § 66-3-305(a)(1).

6. 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 assets or records if Defendants are provided with advance notice of this Order, and that therefore in accordance with Tenn. R. Civ. P. 65.03(1), the interests of justice require that this Order be granted without prior notice to Defendants. There is thus good cause for relieving the State of the duty to provide Defendants with prior notice of the State's application.

7. Good cause exists for: (a) the appointment of a Receiver over Defendant McDivitt Motors, LLC; (b) the freezing of Defendants' assets; and (c) the ancillary relief ordered below.

8. Weighing the equities and considering the State's likelihood of ultimate success, a Temporary Restraining Order with an asset freeze, the appointment of a Receiver, and other equitable relief is in the public interest (collectively, the TRO).

9. No security is required of the State pursuant to Tenn. Code Ann. § 47-18-108(a)(4), because courts are authorized to issue orders and injunctions to restrain and prevent violations of the TCPA, and such orders and injunctions shall be issued without bond.

#### DEFINITIONS

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

10. "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and cash, wherever any such asset is located, whether in the United States or abroad.

11. “McDivitt Motors” means McDivitt Motors, LLC, and its subsidiaries, successors, or assigns.

12. “Defendants” means (a) McDivitt Motors; and (b) Martin McDivitt.

13. The term “document” is equal in scope and synonymous in meaning to the usage of the term in Tennessee Rule of Civil Procedure 34, and includes writings, drawings, graphs, charts. Photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

14. “Martin McDivitt” means Defendant Martin Keith McDivitt, individually and as an owner and officer of McDivitt Motors.

15. “Material fact” means any fact that is likely to affect a person’s choice of, or conduct regarding, goods or services.

16. “Person” means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

17. “Plaintiff” means the State of Tennessee.

18. “Receiver” means the temporary receiver appointed in Section IX of this Order and any deputy receivers that shall be named by the temporary receiver.

19. “Receivership Defendant” means McDivitt Motors.

20. “Representatives” means Defendants’ successors, assigns, officers, agents, servants, employees, or attorneys, and any person or entity in active concert or participation with them who receives actual notice of this Order by personal service or otherwise.

## ORDER

### I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 47-18-108 and this Court's own equitable powers, that the Defendants, in connection with the sale and marketing of motor vehicles, are hereby temporarily restrained and enjoined from making, or assisting in the making of, expressly or by implication, any false or misleading statement or representation of material fact in violation of the TCPA, including, but not limited to, (1) making express material misrepresentations that motor vehicles are "new," when such are not the case; (2) making implied material misrepresentations that Defendants are legally authorized to sell "new" motor vehicles when such is not the case; (3) failing to deliver proper title to motor vehicles; (4) failing to disclose the fact that, contrary to common practice, consumer expectation, and the understanding of the parties, Defendants will not pay off vehicles that are traded in with the purchase of a vehicle from Defendants; (5) directly and/or indirectly promoting, selling, and offering for sale "new" motor vehicles when it was unlawful for Defendants to sell such vehicles in this state because they lack proper licensure; (6) making express material misrepresentations in the Manufacturer's Statement of Origin by altering the Statement to change the name of the first purchaser of a motor vehicle; (7) failing to sell vehicles to Tennessee consumers as advertised or promoted; (8) making express material misrepresentations that a refinancing agreement has more favorable loan terms than a prior agreement when such is not the case; and (9) failing to disclose that Defendants would not pay off a pre-existing loan with the proceeds of a refinance loan.

IT IS FURTHER ORDERED, pursuant to Tenn. Code Ann. § 66-3-308(a) and this Court's own equitable powers, that the Defendants, in connection with the sale and marketing of

motor vehicles, are hereby temporarily restrained and enjoined from making transfers or incurring obligations that are fraudulent as to a creditor in violation of the UFTA, including, but not limited to: (1) exchanging worthless checks for new motor vehicles when Defendants were functionally insolvent; (2) exchanging vehicles with defective title or no title in exchange for cash or loan proceeds from Tennessee consumers when Defendants were functionally insolvent; (3) receiving vehicle trade-ins as part of a motor vehicle transaction and failing to pay off the lien associated with that trade-in when Defendants were functionally insolvent; (4) using vehicle titles for vehicles they did not own or possess to obtain multiple floor plan financing arrangements when Defendants were functionally insolvent; and (5) making repeated and systematic transfers of financial assets to themselves as insiders and/or when they had complete control over the relevant financial accounts.

## II. ASSET FREEZE

IT IS FURTHER ORDERED, pursuant to Tenn. Code Ann. §§ 47-18-108 and 66-3-308(a)(3), and this Court's own equitable powers, that Defendants and their Representatives are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, shares of stock, or other assets, or any interest therein, wherever located, whether within the United States or within a jurisdiction outside the United States, that are: (1) owned or controlled by any Defendant, in whole or in part; (2) held for the benefit of any Defendant; (3) in the actual or constructive possession of any Defendant; or (4) owned, controlled by, or in the actual or constructive possession of any corporation, partnership,



or other entity directly or indirectly owned, managed, or controlled by any Defendant, including, but not limited to, any assets held by or for, or subject to access by, any Defendant at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metals dealer, or other financial institution or depository of any kind

B. Physically opening or causing to be opened any safe deposit boxes titled in the name of, or subject to access by, any Defendant;

C. Obtaining a personal or secured loan encumbering the assets of any Defendant;  
and

D. Incurring liens or other encumbrances on real property, personal property or other assets titled in the name, singly or jointly, of any Defendants.

E. The assets affected by this Section II shall include: (1) all assets of any Defendant as of the time of issuance of this Order; and (2) assets obtained after the time of issuance of this Order if the assets are derived from the conduct alleged in the Plaintiff's Complaint.

### III. RETENTION OF ASSETS AND RECORDS BY FINANCIAL INSTITUTIONS

IT IS FURTHER ORDERED that, pending determination of Plaintiff's request for a preliminary injunction, any financial or brokerage institution, business entity, or person served with a copy of this Order that holds, controls or maintains custody of any account or asset of any Defendant shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any such asset, except by further order of the Court;

B. Deny any person, except the Receiver acting pursuant to Section X of this Order, access to any safe deposit box that is titled in the name of, individually or jointly, or otherwise subject to access by, any Defendant;

C. Provide Plaintiff's counsel, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. The identification number of each such account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of any Defendant;

2. The balance of each such 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 served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification of any safe deposit box that is titled in the name of, individually or jointly, or otherwise subject to access by, any Defendant;

D. Upon request by Plaintiff, promptly provide Plaintiff with copies of all records or other documentation pertaining to each 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.

#### IV. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendants and their Representatives are hereby temporarily restrained and enjoined from:

A. Destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business, business practices, assets, or business or personal finances of any Defendant; and

B. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect Defendants' incomes, disbursements, transactions, and use of money.

V. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that, each Defendant, within forty-eight (48) hours of service of this Order, shall prepare and deliver to counsel for Plaintiff and to the Receiver completed financial statements on the forms attached to this Order as Attachment A (Financial Statement of Individual Defendant) for Martin McDivitt, and Attachment B (Financial Statement of Corporate Defendant) for McDivitt Motors. The financial statements shall be accurate as of the date of entry of this Order. Each Defendant shall include in the financial statements a full accounting of all funds and assets, whether located inside or outside of the United States, that are: (a) titled in the name of such Defendant, jointly, severally, or individually; (b) held by any person or entity for the benefit of such Defendant; or (c) under the direct or indirect control of such Defendant.

VI. CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report concerning any Defendant to Plaintiff.

VII. FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, each Defendant shall:

A. Provide Plaintiff and the Receiver with a full accounting of all funds, documents, and assets outside of the United States which are: (1) titled in the name, individually or jointly,

of any Defendant; or (2) held by any person or entity for the benefit of any Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Defendant;

B. Transfer to the territory of the United States and deliver to the Receiver all funds, documents, and assets located in foreign countries which are: (1) titled in the name individually or jointly of any Defendant; or (2) held by any person or entity, for the benefit of any Defendant; or (3) under the direct or indirect control of any Defendant, whether jointly or singly; and

C. Provide Plaintiff access to all records of accounts or assets of any Defendant held by financial institutions located outside the territorial United States by signing the Consent to Release of Financial Records appended to this Order within Attachments A and B.

#### VIII. INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendants and their Representatives are hereby temporarily 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 VII 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 rules of a foreign trust agreement until such time that all assets have been fully repatriated pursuant to Section VII 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.

IX. APPOINTMENT OF TEMPORARY RECEIVER

IT IS FURTHER ORDERED, pursuant to Tenn. Code Ann. §§ 47-18-108 and 66-3-308(a)(3)(B), and this Court's own equitable powers, that John Ryder is appointed temporary receiver for McDivitt Motors. The Receiver shall be the agent of this Court, and solely the agent of this Court, in acting as Receiver under this Order. The Receiver shall be accountable directly to this Court.

X. RECEIVER'S DUTIES

IT IS FURTHER ORDERED that the Receiver is authorized and directed to accomplish the following:

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

B. Take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody, or under the control of, McDivitt Motors, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all assets and documents of McDivitt Motors and other persons or entities whose interests are now under the direction, possession, custody, or control of, McDivitt Motors. The Receiver shall assume control over the income and profits therefrom and all sums of money now or hereafter due or owing to McDivitt Motors. Provided, however, that the Receiver shall not attempt to collect any amount from a consumer if the Receiver believes the consumer was a victim of the unfair or deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

C. Take exclusive custody, control, and possession of all assets held solely in the name of Martin McDivitt where the Receiver has reasonable cause to believe that the proceeds stemming from violations of the TCPA or fraudulent transfers (as defined by the UFTA) were sent.

D. Take all steps necessary to secure each location from which McDivitt Motors operates its business. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable: (1) serving this Order; (2) completing a written inventory of all Receivership assets; (3) obtaining pertinent information from all employees and other agents of McDivitt Motors, including, but not limited to, the name, home address, Social Security Number, job description, passwords or access codes, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent; (4) photographing and videotaping any or all portions of the location; (5) securing the location by changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at that location; and (6) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises documents or assets of McDivitt Motors. Law enforcement personnel, including, but not limited to, highway patrol, police, or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security;

E. Conserve, hold, and manage all assets of McDivitt Motors, 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 or creditors of McDivitt Motors, including, but not limited

to, obtaining an accounting of the assets and preventing the unauthorized transfer, withdrawal, or misapplication of assets;

F. Obtain all of McDivitt Motors' computer hardware, software, and database information from any consultant or service provider, including, but not limited to, McDivitt Motors' user identification, passwords, software and data backup files.

G. Enter into contracts and purchase insurance as advisable or necessary;

H. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with McDivitt Motors;

I. Manage and administer the business of McDivitt Motors until further order of this Court by performing all incidental acts that the Receiver deems to be advisable or necessary, which includes but is not limited to retaining, hiring, or dismissing any employees, independent contractors, or agents;

J. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;

K. 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 Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Receivership Defendants, such as rental payments;

L. Suspend business operations of McDivitt Motors if in the judgment of the Receiver such operations cannot be continued legally and profitably;

M. Institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the assets of McDivitt Motors, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

N. Defend, compromise, adjust, or otherwise dispose of any or all actions or proceedings instituted in the past or in the future against the Receiver in his role as Receiver, or against McDivitt Motors, as the Receiver deems necessary and advisable to preserve the assets of McDivitt Motors, or as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

O. Issue subpoenas to obtain documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the Receivership estate;

P. Open one or more bank accounts as designated depositories for funds of McDivitt Motors. The Receiver shall deposit all funds of McDivitt Motors in such a designated account and shall make all payments and disbursements from the Receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;

Q. Maintain accurate records of all receipts and expenditures incurred as Receiver;  
and

R. Cooperate with reasonable requests for information or assistance from any state or federal law enforcement agency.

S. Distribute funds, to the extent available, recovered from Martin McDivitt, by:

a. Distribute \$3,500 per month to Martin McDivitt for the purpose of providing for any reasonable housing and other living expenses, including the payment of



any home mortgage, food, health insurance, recurring expenses or charges, or other reasonable living expenses; and

b. Distribute funds for the purpose of paying any non-residential mortgages.

T. Defendants, with or without the agreement of Plaintiff, may move to adjust the reasonable living expense amount stated above for good cause shown.

#### XI. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER

IT IS FURTHER ORDERED that Defendants, their Representatives, and any other person or entity with possession, custody or control of property of or records relating to the Receivership Defendants shall upon notice of this Order by personal service or otherwise immediately notify the Receiver of, and, upon receiving a request from the Receiver, immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

A. All assets of, or traceable to, McDivitt Motors;

B. All documents of McDivitt Motors, including, but not limited to, books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers;

C. All computers and data in whatever form used to conduct the business of McDivitt Motors;

D. All assets belonging to other persons or entities whose interests are now under the direction, possession, custody, or control of, McDivitt Motors; and

E. All keys, codes, and passwords necessary to gain or to secure access to any assets or documents of McDivitt Motors, including, but not limited to, access to their business premises,

means of communication, accounts, computer systems, or other property. In the event that any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Section, the Receiver may file *ex parte* an Affidavit of Non-Compliance regarding the failure. Upon 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 any sheriff or deputy sheriff of any county, or any other state law enforcement officer, to seize the asset, document, or other item covered by this Section and to deliver it to the Receiver.

## XII. PROVISION OF INFORMATION TO RECEIVER

IT IS FURTHER ORDERED that Defendants shall provide to the Receiver, immediately upon request, the following:

A. A list of all assets and property, including accounts, of McDivitt Motors that are held in any name other than the name of McDivitt Motors, or by any person or entity other than McDivitt Motors; and

B. A list of all agents, employees, officers, servants or those persons in active concert and participation with Defendants, who have been associated or done business with McDivitt Motors.

## XIII. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants, their Representatives, and all other persons or entities served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the assets of McDivitt Motors. This cooperation and assistance shall include, but not be limited to: providing information to the Receiver that the Receiver deems necessary in order to exercise the authority

and discharge the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; advising all persons who owe money to McDivitt Motors that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the assets and sales of McDivitt Motors. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers and other financial institutions and depositories of any kind, and all third-party billing agents, common carriers, and other telecommunications companies, that have transacted business with the Receivership Defendants.

#### XIV. INTERFERENCE WITH THE RECEIVER

IT IS FURTHER ORDERED that Defendants and their Representatives are hereby restrained and enjoined from directly or indirectly:

- A. Interfering with the Receiver managing, or taking custody, control, or possession of, the assets or documents subject to this Receivership;
- B. Transacting any of the business of McDivitt Motors;
- C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, McDivitt Motors, or the Receiver; and
- D. Refusing to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any order of this Court.

#### XV. STAY OF ACTIONS AGAINST MCDIVITT MOTORS

IT IS FURTHER ORDERED that, except by leave of this Court, during pendency of the Receivership ordered herein, Defendants, their Representatives, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Defendants, and all others acting for or on behalf of such persons, are hereby enjoined from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or documents of McDivitt Motors, including, but not limited to:

A. Petitioning, or assisting in the filing of a petition, that would cause McDivitt Motors to be placed in bankruptcy;

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against McDivitt Motors, including the issuance or employment of process against McDivitt Motors, except that such actions may be commenced if necessary to toll any applicable statute of limitations;

C. Filing or enforcing, my lien on any asset of McDivitt Motors, taking or attempting to take possession, custody, or control of any asset of McDivitt Motors; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of McDivitt Motors, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

D. Initiating any other process or proceeding that would interfere with the Receiver managing or taking custody, control, or possession of, the assets or documents subject to this receivership. Provided that, this Order does not stay: (i) the commencement or continuation of a criminal action or proceeding; (ii) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or (iii) 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.

XVI. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by, in the possession or control of, or which may be received by, McDivitt Motors. The Receiver shall file with the Court and serve on the parties periodic requests for the payment of such reasonable compensation, with the first such request filed no more than sixty (60) days after the date of entry of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

XVII. RECEIVER'S BOND

IT IS FURTHER ORDERED that the Receiver shall file with the Clerk of this Court a bond in the sum of \$ 4,000<sup>00</sup> with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

XVIII. ACCESS TO BUSINESS OFFICES AND RECORDS

IT IS FURTHER ORDERED that, in order to allow Plaintiff and the Receiver to preserve assets and evidence relevant to this action, and to expedite discovery, Plaintiff and Receiver, and their representatives, agents, and assistants, shall have immediate access to the business premises of McDivitt Motors. Such locations include, but are not limited to Plaintiff and the Receiver, and their representatives, agents, and assistants, are authorized to employ the assistance of law enforcement officers as they deem necessary to effect service and to implement peacefully the

provisions of this Order. Plaintiff and the Receiver, and their representatives, agents, and assistants, are authorized to remove documents from McDivitt Motors' premises in order that they may be inspected, inventoried, and copied for the purpose of preserving discoverable material in connection with this action.

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

#### XIX. EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that, in anticipation of the temporary injunction hearing in this matter, Plaintiff and the Receiver are authorized to conduct expedited discovery concerning Defendants' assets and the location of business records in accordance with the following provisions:

A. Plaintiff and the Receiver may take the depositions of parties and non-parties. Forty-eight (48) hours' notice shall be sufficient notice for such depositions;

B. Plaintiff and the Receiver may serve upon parties requests for production of documents or inspection that require production or inspection within five (5) calendar days of service, and may serve subpoenas upon non-parties that direct production or inspection within five (5) calendar days of service;

C. Plaintiff and the Receiver may serve deposition notices and other discovery requests upon the parties to this action by facsimile or overnight courier, and depositions may be taken by telephone or other remote electronic means; and

D. Any discovery taken pursuant to this Order is in addition to, and is not subject to, the presumptive limits on discovery set forth in the Tennessee Rules of Civil Procedure and Local Rules of this Court. If a Defendant fails to appear for a properly noticed deposition or fails to comply with a request for production or inspection, that Defendant may be prohibited from introducing evidence at the hearing on Plaintiff's request for a temporary injunction.

XX. SERVICE BY FACSIMILE AUTHORIZED

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Defendant, or that may otherwise be subject to any provision of this Order. Service upon any branch or office of any financial institution shall affect service upon the entire financial institution.

XXI. DEFENDANTS' DUTY TO DISTRIBUTE ORDER

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each of their affiliates, subsidiaries, divisions, sales entities, successors, assigns, officers, directors, employees, independent contractors, client companies, agents, attorneys, spouses and representatives, and shall, within ten (10) days from the date of entry of this Order, provide Plaintiff with a sworn statement that: (A) confirms that Defendants have provided copies of the Order as required by this paragraph; and (B) lists the names and addresses of each entity or person to whom Defendants provided a copy of the Order. Furthermore, Defendants shall not take any action that would encourage officers, agents, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

XXII. DURATION OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire fourteen (14) days from the date of entry noted below unless, within such time, the Order is extended for an additional period not to exceed fourteen (14) days for good cause shown, or unless, as to any Defendant, such Defendant consents to an extension for a longer period.

XXIII. TENNESSEE CONSUMER PROTECTION ACT ORDER

IT IS FURTHER ORDERED that this is an Order issued pursuant to Tenn. Code Ann. § 47-18-108(a) and (b) subject to the penalties set forth in Tenn. Code Ann. § 47-18-108(c) and any other penalties, remedies and sanctions available at law.

XXIV. ORDER TO SHOW CAUSE REGARDING TEMPORARY INJUNCTION

IT IS FURTHER ORDERED, pursuant to Tennessee Rule of Civil Procedure 65.02, that each Defendant shall appear before this Court on the 16<sup>th</sup> day of July, 2019, at 9:00 am/pm, to show cause, if there is any, why this Court should not enter a Temporary Injunction enjoining the violations of law alleged in Plaintiff's Complaint, continuing the freeze of their assets, permanently continuing the Receivership and imposing such additional relief as may be appropriate.

XXV. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION

IT IS FURTHER ORDERED that any brief concerning Plaintiff's request for entry of a temporary injunction must be filed with the Clerk's Office and received by counsel that have entered an appearance no later than twenty-four (24) hours before the time scheduled for the preliminary injunction hearing. The parties must file with the Clerk's Office and deliver to counsel that have entered an appearance any affidavits and other evidence upon which they intend to rely in connection with Plaintiffs request for a temporary injunction no later than



twenty-four (24) hours before the time scheduled for the temporary injunction hearing. If any party intends to present the testimony of any witness at the hearing on a temporary injunction, that party shall file with the Court and deliver to counsel that have entered an appearance a statement disclosing the name, address and telephone number of any such witness, and either a summary of the witness's expected testimony, or the witness's affidavit or declaration revealing the substance of the witness's testimony, no later than twenty-four (24) hours before the time scheduled for the temporary injunction hearing.

XXVI. SERVICE UPON PLAINTIFF

IT IS FURTHER ORDERED that Defendants shall serve all pleadings, memoranda, correspondence, affidavits, declarations, or other documents related to this Order or Plaintiff's motion for a preliminary injunction by facsimile transmission to (615) 532-2590, by hand delivery to the offices of the Tennessee Attorney General's Office, Consumer Protection Division, 315 Deaderick Street, 20th Floor, 37243, or by U.S. Mail to P.O. Box 20207, Nashville, TN 37202-0207, and addressed to the attention of Travis Brown, or by overnight shipment through a third-party commercial carrier for delivery at this address.

XXVII. RETENTION OF JURISDICTION

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

IT IS SO ORDERED.

This 2d day of July, 2019.

  
CIRCUIT COURT JUDGE

*by interchen*

J

Respectfully submitted,

HERBERT H. SLATERY III  
Attorney General and Reporter



---

TRAVIS BROWN, B.P.R. No. 034164

Assistant Attorney General

NATE CASEY, B.P.R. No. 031060

Assistant Attorney General

JAMES R. NEWSOM, B.P.R. No. 006683

Special Counsel

Office of the Tennessee Attorney General

Public Protection Section

Consumer Protection Division

UBS Tower, 20th Floor

315 Deaderick Street

Nashville, Tennessee 37243

P: (615) 741-3533

F: (615) 532-2590

Travis.Brown@ag.tn.gov

Nate.Casey@ag.tn.gov

Jim.Newsom@ag.tn.gov

*Attorneys for Plaintiff, the State of Tennessee*

**ATTACHMENT A**

---

**Instructions:**

1. Complete all items, Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why. In completing this financial statement, "the corporation" refers not only to this corporation but also to each of its predecessors that are not named defendants in this action. When an Item asks for information about assets or liabilities "held by the corporation," include ALL such assets and liabilities held by the corporation or held by others for the benefit of the corporation. Attach continuation pages as needed. On the financial statement, state next to the Item number that the Item is being continued. On the continuation page(s), identify the Item number being continued.
  
2. An officer of the corporation must sign under oath before a notary and date the completed financial statement on the last page and initial each page in the space provided at the bottom of each page.

**BACKGROUND INFORMATION**

**Item 1.      General Information**

Corporation's Full Name \_\_\_\_\_  
Primary Business Address \_\_\_\_\_ From (Date) \_\_\_\_\_

Provide all other current addresses & previous addresses for the past three years, including post office boxes and mail drops:

Address \_\_\_\_\_ From/Until \_\_\_\_\_  
Address \_\_\_\_\_ From/Until \_\_\_\_\_  
Address \_\_\_\_\_ From/Until \_\_\_\_\_

List all predecessor companies for the past three years:

Name & Address \_\_\_\_\_ From/Until \_\_\_\_\_  
Name & Address \_\_\_\_\_ From/Until \_\_\_\_\_  
Name & Address \_\_\_\_\_ From/Until \_\_\_\_\_

**Item 2.      Legal Information**

Federal Taxpayer ID No. \_\_\_\_\_ State Tax ID No. \_\_\_\_\_

**Item 3.      Principal Stockholders**

List all persons and entities that own at least 5% of the corporation's stock.

Name & Address \_\_\_\_\_ % Owned \_\_\_\_\_



List all related individuals with whom the corporation has had any business transactions during the three previous fiscal years and current fiscal year-to-date. A "related individual" is a spouse, sibling, parent, or child of the principal stockholders and/or officers (i.e., the individuals listed above).

Name & Address

Relationship

Business Activities

**Item 8. Outside Accountants**

List all outside accountants retained by the corporation during the last three years.

Name

Firm Name

Address

CPA/PA

**Item 9. Corporation's Record Keeping**

List all individuals within the corporation with responsibility for keeping the corporation's financial books and records for the last three years.

Name, Address, & Telephone Number

Position(s) Held

**Item 10. Attorneys**

List all attorneys retained by the corporation during the last three years.

Name

Firm Name

Address

**Item 11. All litigation involving the Corporation**

List all pending lawsuits in which the corporation is involved in court or before an administrative agency.

Opposing Party's Name & Address \_\_\_\_\_

Court's Name & Address \_\_\_\_\_

Docket No. \_\_\_\_\_ Relief Requested \_\_\_\_\_ Nature of Lawsuit \_\_\_\_\_

Status \_\_\_\_\_

Opposing Party's Name & Address \_\_\_\_\_

Court's Name & Address \_\_\_\_\_

Docket No. \_\_\_\_\_ Relief Requested \_\_\_\_\_ Nature of Lawsuit \_\_\_\_\_

Status \_\_\_\_\_

## FINANCIAL INFORMATION

### **Item 12. Tax Returns**

List all federal and state corporate tax returns filed for the last three complete fiscal years. *Attach copies of all returns.*

<u>Federal</u> <u>State/Both</u>	<u>Tax Year</u>	<u>Tax Due</u> <u>Federal</u>	<u>Tax Paid</u> <u>Federal</u>	<u>Tax Due</u> <u>State</u>	<u>Tax Paid</u> <u>State</u>	<u>Preparer's Name</u>
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	_____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	_____
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	_____

### **Item 13. Safe Deposit Boxes**

List all safe deposit boxes, located within the State of Tennessee or elsewhere, held by the corporation, or held by others for the benefit of the corporation. *On a separate page, describe the contents of each box.*

<u>Owner's Name</u>	<u>Name &amp; Address of Depository Institution</u>	<u>Box No.</u>
---------------------	---	----------------

### **Item 14. Financial Statements**

List all financial statements that were prepared for the corporation's last three complete fiscal years and for the current fiscal year-to-date. *Attach copies of all statements, providing audited statements if available.*

<u>Year</u>	<u>Balance Sheet</u>	<u>Profit &amp; Loss Statement</u>	<u>Cash Flow Statement</u>	<u>Changes in Owner's Equity</u>	<u>Audited?</u>
-------------	----------------------	------------------------------------	----------------------------	----------------------------------	-----------------

### **Item 15. Financial Summary**

For each of the last three complete fiscal years and for the current fiscal year-to-date for which the corporation has not provided a profit and loss statement in accordance with Item 14 above, provide the following summary financial information.

	<u>Current Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>3 Years Ago</u>
<u>Gross Revenue</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Expenses</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Net Profit After Taxes</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Payable</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Receivables</u>	\$ _____	\$ _____	\$ _____	\$ _____

**Item 16. Cash, Bank, and Money, Market Accounts**

List cash and all bank and money market accounts, including but not limited to checking accounts, savings accounts, and certificates of deposit, held by the corporation. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ \_\_\_\_\_ Cash Held for the Corporation's Benefit \$ \_\_\_\_\_

<u>Name &amp; Address of Financial Institution</u>	<u>Signatory(ies) on Account</u>	<u>Account No.</u>	<u>Current Balance</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

**Item 17. Real Estate**

List all real estate, including leaseholds in excess of five years, held by the corporation.

Type of Property \_\_\_\_\_

Property's Location \_\_\_\_\_

Name(s) on Title and Ownership Percentages \_\_\_\_\_

Current Value \$ \_\_\_\_\_ Loan or Account No. \_\_\_\_\_

Lender's Name and Address \_\_\_\_\_

Current Balance On First Mortgage \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Other Loan(s) (describe) \_\_\_\_\_ Current Balance \$ \_\_\_\_\_

Monthly Payment \$ \_\_\_\_\_ Rental Unit \_\_\_\_\_ Monthly Rent Received \$ \_\_\_\_\_

Type of Property \_\_\_\_\_ Property's Location \_\_\_\_\_

Name(s) on Title and Ownership Percentages \_\_\_\_\_

Current Value \$ \_\_\_\_\_ Loan or Account No. \_\_\_\_\_

Lender's Name and Address \_\_\_\_\_

Current Balance On First Mortgage \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Other Loan(s) (describe) \_\_\_\_\_ Current Balance \$ \_\_\_\_\_

Monthly Payment \$ \_\_\_\_\_ Rental Unit? \_\_\_\_\_ Monthly Rent Received \$ \_\_\_\_\_

**Item 18. Other Assets**

List all other property, by category, with an estimated value of \$5000 or more, held by the corporation, including but not limited to, inventory, machinery, equipment, furniture, vehicles, customer lists, computer software, patents, and other intellectual property.

<u>Property Category</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
--------------------------	--------------------------	-------------------------	----------------------

**Item 19. Trusts and Escrows**

List all persons and other entities holding funds or other assets that are in escrow or in trust for the corporation.

<u>Trustee or Escrow Agent's Name &amp; Address</u>	<u>Description and Location of Assets</u>	<u>Present Market Value of Assets</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

**Item 20. Monetary Judgments and Settlements Owed By and To the Corporation**

List all monetary judgments and settlements, recorded and unrecorded, owed by and to the corporation.

Opposing Party's Name & Address \_\_\_\_\_  
 Court's Name & Address \_\_\_\_\_ Docket No. \_\_\_\_\_  
 Nature of Lawsuit \_\_\_\_\_ Date of Judgment \_\_\_\_\_ Amount \$ \_\_\_\_\_

Opposing Party's Name & Address \_\_\_\_\_  
 Court's Name & Address \_\_\_\_\_ Docket No. \_\_\_\_\_  
 Nature of Lawsuit \_\_\_\_\_ Date of Judgment \_\_\_\_\_ Amount \$ \_\_\_\_\_

**Item 21. Government Orders and Settlements**

List all existing orders and settlements between the corporation and any federal or state government entities.

Name of Agency \_\_\_\_\_ Contact Person \_\_\_\_\_  
 Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
 Agreement Date \_\_\_\_\_ Nature of Agreement \_\_\_\_\_

Name of Agency \_\_\_\_\_ Contact Person \_\_\_\_\_  
 Address \_\_\_\_\_ Telephone No. \_\_\_\_\_  
 Agreement Date \_\_\_\_\_ Nature of Agreement \_\_\_\_\_

**Item 22. Credit Cards**

List all of the corporation's credit cards and retail charge accounts and the individuals authorized to use them.

Name of Credit Card or Store \_\_\_\_\_ Names of Authorized Users and Positions Held \_\_\_\_\_

**Item 23. Compensation of Employees**



List all compensation and other benefits paid by the corporation to the five most highly compensated employees, independent contractors, and consultants, for the two previous fiscal years and current fiscal year-to-date. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, bonuses, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____

**Item 24. Compensation of Board Members and Officers**

List all compensation and other benefits received from the corporation by Board Members and Officers for the current fiscal year-to-date and the two previous fiscal years. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loans, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	\$ _____	_____

**Item 25. Transfers of Assets Including Cash and Property**

List all transfers of assets over \$5,000 made by the corporation, other than in the ordinary course of business, during the previous three years, by loan, gift, sale, or other transfer.

<u>Transferee's Name, Address, &amp; Relationship</u>	<u>Property</u>	<u>Aggregate</u>	<u>Transfer</u>	<u>Type of</u>
	<u>Transferred</u>	<u>Value</u>	<u>Date</u>	<u>(e.g., Loan, Gift)</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**OATH OF OFFICER**

I, \_\_\_\_\_, an officer of \_\_\_\_\_ (insert name of corporation), am submitting this financial statement with the understanding that it may affect action by the State of Tennessee, Attorney General, or a state court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I certify under penalty of perjury under the laws of the State of Tennessee the foregoing is true and correct. I further swear under oath to the truthfulness and completeness of the facts and information set forth in this Financial Statement.

\_\_\_\_\_  
Signature

Full Name: \_\_\_\_\_

\_\_\_\_\_  
Officer's Corporate Position

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Business Telephone Number

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

**RELEASE FORM**

**Consent to Release of Financial Records, \_\_\_\_\_ (Corporate Form)**

I, \_\_\_\_\_, as an officer of \_\_\_\_\_, do hereby direct any bank, trust company, or financial institution, at which \_\_\_\_\_, has an account of any kind upon which \_\_\_\_\_ is authorized to draw, and its officers, employees, and agents, to disclose all information and deliver copies of all documents of every nature in their possession or control that relate to any such account to any employee of the State of Tennessee, Attorney General and to give evidence relevant thereto, and this shall be irrevocable authority for so doing.

This direction is intended to apply to the laws of countries other than the United States that restrict or prohibit the disclosure of financial information without the consent of the holder of the account, or its officers, and shall be construed as consent with respect thereto.

Dated: \_\_\_\_\_, \_\_\_\_\_.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_



**ATTACHMENT B**

---

**Instructions:**

Complete all items. Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why. "Assets" and "Liabilities" includes ALL assets and liabilities located within the United States or elsewhere. Attach additional pages as necessary to answer all questions fully. Initial each page in the space provided in the lower right corner. Sign under oath before a notary and date the completed financial statement on the last page.

**BACKGROUND INFORMATION**

**Item 1. Information about You**

Your Full Name \_\_\_\_\_ Social Security # \_\_\_\_\_  
Current Address \_\_\_\_\_ Since (Date) \_\_\_\_\_  
Current Telephone Number \_\_\_\_\_ (cellular) \_\_\_\_\_ (work) \_\_\_\_\_ (home)  
Current Email Address \_\_\_\_\_ (personal) \_\_\_\_\_ (work)

Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used \_\_\_\_\_ Marital Status \_\_\_\_\_

**Item 2. Information about Spouse, Dependents**

Name \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Relationship \_\_\_\_\_ Social Security No. \_\_\_\_\_

Name \_\_\_\_\_ Date of Birth \_\_\_\_\_  
Relationship \_\_\_\_\_ Social Security No. \_\_\_\_\_

**Item 3. Employment Information**

Provide the following information for this year to-date, and for each of the previous three full years, for each company of which you were a director, officer, employee, agent, or consultant at any time during that period.

Company Name & Address \_\_\_\_\_  
Position Held and Dates Employed \_\_\_\_\_

Company Name & Address \_\_\_\_\_  
Position Held and Dates Employed \_\_\_\_\_

Company Name & Address \_\_\_\_\_  
Position Held and Dates Employed \_\_\_\_\_

**FINANCIAL INFORMATION: ASSETS AND LIABILITIES**

**REMINDER: "Assets" and "Liabilities" include ALL assets and liabilities located within the United States or elsewhere, whether held individually or jointly.**

**Item 4. Safe Deposit Boxes**

List all safe deposit boxes, located within the United States or elsewhere, held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents. *On a separate page, describe the contents of each box.*

<u>Owner's Name</u>	<u>Name &amp; Address of Depository Institution</u>	<u>Box No.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Item 5. Cash, Bank Accounts, Money Market Accounts, Certificates of Deposit**

List cash and all bank accounts, money market accounts, and/or certificates of deposit held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ \_\_\_\_\_ Cash Held for Your Benefit \$ \_\_\_\_\_

<u>Name on Account</u>	<u>Name &amp; Address of Financial Institution</u>	<u>Account No.</u>	<u>Current Balance</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

**Item 6. Publicly Traded and Government Securities**

List all securities, including but not limited to, stock options, registered and bearer bonds, state and municipal bond, and mutual funds held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. In the alternative, attach the most recent brokerage statement for each account.

<u>Name of Security</u>	<u># of units owned</u>	<u>Owner of Security</u>	<u>Location of Security</u>	<u>Current Value</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**Item 7. Other Business Interests**

List all other business interests, including but not limited to, non-public corporations, general or limited partnership interests, sole proprietorships, and oil and mineral leases, in which you, your spouse, or your dependents are an office, director, or have an ownership interest.

Business Format \_\_\_\_\_ Business Names & Address \_\_\_\_\_  
 Ownership % \_\_\_\_\_ Officer/Director \_\_\_\_\_  
 Owner (e.g., self, spouse) \_\_\_\_\_ Current Fair Market Value \$ \_\_\_\_\_

Business Format \_\_\_\_\_ Business Names & Address \_\_\_\_\_  
 Ownership % \_\_\_\_\_ Officer/Director \_\_\_\_\_  
 Owner (e.g., self, spouse) \_\_\_\_\_ Current Fair Market Value \$ \_\_\_\_\_

**Item 8. Amounts Owed to You, Your Spouse, or Your Dependents**

List all amounts owed to you, your spouse, or your dependents.

Debtor's Name, Address & Telephone No. \_\_\_\_\_  
 Original Amount Owed \$ \_\_\_\_\_ Current Amount Owed \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Debtor's Name, Address & Telephone No. \_\_\_\_\_  
 Original Amount Owed \$ \_\_\_\_\_ Current Amount Owed \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

**Item 9. Personal Property**

List all personal property, by category, whether held for personal use or for investment, including but not limited to, furniture and household goods of value, computer equipment, electronics, coins, stamps, artwork, gemstones, jewelry, bullion, other collectibles, copyrights, patents, and other intellectual property, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

<u>Property Category</u>	<u>Name of Owner</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

**Item 10. Cars, Trucks, Motorcycles, Boats, Airplanes, and Other Vehicles**

List all cars, trucks, motorcycles, boats, airplanes, and other vehicles owned or operated by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

Vehicle Type \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_  
 Registered Owner's Name \_\_\_\_\_ Registration State & No. \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Current Loan Balance \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Vehicle Type \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_  
 Registered Owner's Name \_\_\_\_\_ Registration State & No. \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Current Loan Balance \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Vehicle Type \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_  
 Registered Owner's Name \_\_\_\_\_ Registration State & No. \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Current Loan Balance \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

Vehicle Type \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_  
 Registered Owner's Name \_\_\_\_\_ Registration State & No. \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Current Loan Balance \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_

**Item 11. Real Property**

List all real estate held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

Type of Property \_\_\_\_\_ Property Location \_\_\_\_\_  
 Name(s) on Title and Ownership Percentages \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Balance on First Mortgage \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_  
 Other Loan(s) (describe) \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Monthly Payment \$ \_\_\_\_\_ Rental Unit? \_\_\_\_\_ Monthly Rent Received \$ \_\_\_\_\_

Type of Property \_\_\_\_\_ Property Location \_\_\_\_\_  
 Name(s) on Title and Ownership Percentages \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Balance on First Mortgage \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_  
 Other Loan(s) (describe) \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Monthly Payment \$ \_\_\_\_\_ Rental Unit? \_\_\_\_\_ Monthly Rent Received \$ \_\_\_\_\_

Type of Property \_\_\_\_\_ Property Location \_\_\_\_\_  
 Name(s) on Title and Ownership Percentages \_\_\_\_\_  
 Current Value \$ \_\_\_\_\_ Balance on First Mortgage \$ \_\_\_\_\_ Monthly Payment \$ \_\_\_\_\_  
 Other Loan(s) (describe) \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Monthly Payment \$ \_\_\_\_\_ Rental Unit? \_\_\_\_\_ Monthly Rent Received \$ \_\_\_\_\_

**Item 12. Credit Cards**

List each credit card held by you, your spouse, or your dependents. Also list any other credit cards that you, your spouse, or your dependents use.

<u>Name of Credit Card (e.g., Visa, MasterCard, Department Store)</u>	<u>Account No.</u>	<u>Name(s) on Account</u>	<u>Current Balance</u>	<u>Minimum Monthly Payment</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

**Item 13. Loans and Liabilities**

List all loans or liabilities in your name, your spouse's name, or your dependents' names.

Name & Address of Lender/Creditor \_\_\_\_\_  
 Nature of Liability \_\_\_\_\_ Name(s) on Liability \_\_\_\_\_  
 Date of Liability \_\_\_\_\_ Amount Borrowed \$ \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Payment Amount \$ \_\_\_\_\_ Frequency of Payment \_\_\_\_\_



Name & Address of Lender/Creditor \_\_\_\_\_  
 Nature of Liability \_\_\_\_\_ Name(s) on Liability \_\_\_\_\_  
 Date of Liability \_\_\_\_\_ Amount Borrowed \$ \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Payment Amount \$ \_\_\_\_\_ Frequency of Payment \_\_\_\_\_

Name & Address of Lender/Creditor \_\_\_\_\_  
 Nature of Liability \_\_\_\_\_ Name(s) on Liability \_\_\_\_\_  
 Date of Liability \_\_\_\_\_ Amount Borrowed \$ \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Payment Amount \$ \_\_\_\_\_ Frequency of Payment \_\_\_\_\_

Name & Address of Lender/Creditor \_\_\_\_\_  
 Nature of Liability \_\_\_\_\_ Name(s) on Liability \_\_\_\_\_  
 Date of Liability \_\_\_\_\_ Amount Borrowed \$ \_\_\_\_\_ Current Balance \$ \_\_\_\_\_  
 Payment Amount \$ \_\_\_\_\_ Frequency of Payment \_\_\_\_\_

**OTHER FINANCIAL INFORMATION**

**Item 14. Tax Returns**

List all federal and state tax returns that were filed during the last three years by or on behalf of you. Provide a copy of each signed tax return that was filed during the last three years.

<u>Tax Year</u>	<u>Federal Refund Expected</u>	<u>State Refund Expected</u>	<u>Preparer=s Name</u>
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____

**Item 15. Transfers of Assets**

List each person to whom you have transferred, in the aggregate, more than \$5000 in funds or other assets during the previous three years by loan, gift, sale, or other transfer. For each such person, state the total amount transferred during that period.

<u>Transferee's Name, Address &amp; Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____

**SUMMARY FINANCIAL SCHEDULES**

**Item 16. Combined Balance Sheet for You, Your Spouse, and Your Dependents. "You" includes yourself, your spouse, and your dependents.**

<u>ASSETS</u>		<u>LIABILITIES</u>	
Cash on Hand	\$ _____	Credit Card Balances	\$ _____
Cash in Financial Institutions	\$ _____	Motor Vehicles, Boats, Airplanes (Liens)	\$ _____
Securities	\$ _____	Real Property - Mortgages	\$ _____
Other Business Interests	\$ _____	Loans Against Securities	\$ _____
Amounts Owed to You	\$ _____	Taxes Owed by You	\$ _____
Personal Property You Own	\$ _____	Other Loans and Liabilities (Itemize)	\$ _____
Airplanes You Own	\$ _____	_____	\$ _____
Value of Real Property You Own	\$ _____	_____	\$ _____
Other Assets You Own (Itemize)	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
<b>Total Assets</b>	<b>\$ _____</b>	<b>Total Liabilities</b>	<b>\$ _____</b>

**Item 17.**

**Combined Average MONTHLY Income and Expenses for You, Your Spouse, and Your Dependents for the Last Six (6) Months**

Provide the average monthly income and expenses for you, your spouse, and your dependents for the last six (6) months. Do not include credit card payments separately; rather, include credit card expenditures in the appropriate categories.

<u>INCOME</u>		<u>EXPENSES</u>	
Salary - After Taxes	\$ _____	Mortgage payments for Residence(s)	\$ _____
Fees, Commissions, and Royalties	\$ _____	Property Taxes for Residence(s)	\$ _____
Interest	\$ _____	Rental Property Expenses, Including Mortgage Payments, Taxes, and Insurance	\$ _____
Dividends and Capital Gains	\$ _____	Car or other Vehicle Lease or Loan Payments	\$ _____
Cross Rental Income	\$ _____	Food Expenses	\$ _____
Profits from Sole Proprietorships	\$ _____	Clothing Expenses	\$ _____
Distributions from Partnerships, S-Corporations, and LLCs	\$ _____	Utilities	\$ _____
Distributions from Trusts and Estates	\$ _____	Medical Expenses, Including Insurance	\$ _____
Social Security Payments	\$ _____	Other Insurance Premiums	\$ _____
Alimony/Child Support Received	\$ _____	Other Transportation Expenses	\$ _____
<u>Other Income (Itemize)</u>	\$ _____	Other Household Expenses	\$ _____
_____	\$ _____	Other Expenses (Itemize)	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
Total Income	\$ _____	Total Expenses	\$ _____

**OATH OF INDIVIDUAL**

I, \_\_\_\_\_, am submitting this financial statement with the understanding that it may affect action by the State of Tennessee, the Attorney General, or a state court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I certify under penalty of perjury under the laws of the State of Tennessee the foregoing is true and correct. I further swear under oath to the truthfulness and correctness of the facts and information set forth in this Financial Statement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Residential Address

\_\_\_\_\_  
Residential Telephone Number

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Business Telephone Number

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

**RELEASE FORM**

**Consent to Release of Financial Records, Individual**

I, \_\_\_\_\_, do hereby direct any bank, trust company, or financial institution at which I have an account of any kind upon which I am authorized to draw, and its officers, employees, and agents, to disclose all information and deliver copies of all documents of every nature in their possession or control that relate to any such account to any employee of the State of Tennessee or the Tennessee Attorney General and to give evidence relevant thereto, and this shall be irrevocable authority for so doing.

This direction is intended to apply to the laws of countries other than the United States that restrict or prohibit the disclosure of financial information without the consent of the holder of the account, or its officers, and shall be construed as consent with respect thereto.

Dated: \_\_\_\_\_, 20\_\_.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_