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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,
14 Plaintiff,

15 v.

16 DIGITAL ALTITUDE LLC, a
17 Delaware limited liability company;
DIGITAL ALTITUDE LIMITED,
18 United Kingdom company; ASPIRE
PROCESSING LLC, a Nevada limited
19 liability company; ASPIRE
PROCESSING LIMITED, a United
20 Kingdom company; ASPIRE
VENTURES LTD., a United Kingdom
21 company; DISC ENTERPRISES INC.,
a Nevada corporation; RISE SYSTEMS
22 & ENTERPRISE LLC, a Utah limited
liability company; RISE SYSTEMS &
23 ENTERPRISE LLC, a Nevada limited
liability company; SOAR
24 INTERNATIONAL LIMITED
LIABILITY COMPANY, a Utah
25 limited liability company; THE
UPSIDE, LLC, a California limited
26 liability company; THERMOGRAPHY
FOR LIFE, LLC, also d/b/a LIVING
27 EXCEPTIONALLY, INC., a Texas
limited liability company; MICHAEL
28 FORCE, individually and as an officer,

) Case No.: 2:18-cv-00729 JAK-MRW
) Assigned to Hon. John A. Kronstadt

) **RECEIVER'S FIFTH REPORT**

1 member and/or manager of Digital)
 2 Altitude LLC and Soar International)
 3 Limited Liability Company; MARY)
 4 DEE, individually and as an officer,)
 5 member and/or manager of Digital)
 6 Altitude LLC, Digital Altitude Limited,)
 7 Aspire Processing LLC, RISE Systems)
 8 & Enterprise LLC, The Upside, LLC,)
 9 and Thermography for Life, LLC;)
 10 MORGAN JOHNSON, individually and)
 11 as an officer, member and/or manager of)
 12 Digital Altitude LLC and RISE Systems)
 13 & Enterprise LLC; ALAN MOORE,)
 14 individually and as an officer, member)
 15 and/or manager of Digital Altitude LLC)
 16 and Aspire Processing Limited; and)
 17 SEAN BROWN, individually and as an)
 18 officer, member and/or manager of)
 19 Aspire Processing LLC, Disc)
 20 Enterprises Inc. and RISE Systems &)
 21 Enterprise LLC,)
 22 Defendants.)

23 Thomas A. Seaman, the Court-appointed Temporary Receiver (“Receiver”))
 24 for defendants Digital Altitude, LLC, Digital Altitude Limited; Aspire Processing)
 25 LLC; Aspire Processing Limited; Aspire Ventures Ltd; Disc Enterprises Inc.; RISE)
 26 Systems & Enterprise LLC (Utah); RISE Systems & Enterprise LLC (Nevada); Soar)
 27 International Limited Liability Company; The Upside, LLC; Thermography for)
 28 Life, LLC, d/b/a Living Exceptionally, Inc., and each of their subsidiaries, affiliates,)
 successors, and assigns (the “Receivership Entities”), respectfully submits this)
 Receiver’s Fifth Report to advise this Court and interested parties with the status of)
 the Receiver’s activities and preliminary findings.

23 **I. INTRODUCTION AND PROCEDURAL BACKGROUND**

24 Plaintiff Federal Trade Commission (“FTC”) filed the above-captioned)
 25 action, under seal, on January 29, 2018. On Thursday, February 1, 2018, this Court)
 26 entered its “*Ex Parte* Temporary Restraining Order With Asset Freeze, Appointment)
 27 of Temporary Receiver, and Other Equitable Relief, and Order to Show Cause Why)
 28 a Preliminary Injunction Should Not Issue” (the “TRO”). On March 9, 2018 the

1 Court issued a Preliminary Injunction and continued the receivership. The Receiver
2 filed his Receiver's First Report on March 1, 2018 which provided an accounting
3 through February 28, 2018. This Receiver's Second Report was filed on June 22,
4 2018. The Receiver's Third Report was filed October 25, 2018. The Receiver's
5 Fourth Report was filed February 6, 2019. The Court entered stipulated Permanent
6 Injunctions and Monetary Judgements against Michael Force and Mary Dee on
7 March 4, 2019. The Receiver's Fifth Report covers the period from January 1, 2019
8 through July 31, 2018 ("the Reporting Period").

9 **II. STATUS REPORT**

10 **A. Frozen Funds:** As previously reported, the Receiver continued to take
11 possession of the Receivership Entities' frozen funds in accordance with the TRO
12 and Preliminary Injunction. A number of bank accounts of the Receivership Entities
13 were frozen upon entry of the TRO. Based upon information gathered from Digital
14 Altitude's digital books and records, the Receiver identified additional non-named
15 parties and took actions to freeze their bank accounts. On February 28, 2018, the
16 Receiver filed his "Notice of Identification of Nonparties as Receivership Parties
17 pursuant to Temporary Restraining Order." [See Docket # 82]. No additional
18 accounts were identified during the Reporting Period, and \$391 was collected by the
19 Receiver from previously frozen accounts. Through July 31, 2019, the Receiver has
20 taken possession of \$2,009,540.33 on hand in frozen accounts.

21 **B. Merchant Account Payment Processors:** Most of Digital Altitude's
22 customers paid their fees with a credit card and Digital Altitude used a very large
23 network of merchant accounts to facilitate the payment of members' fees. The
24 Receiver provided notice of the freeze order and TRO to known merchant account
25 processors and has instructed them that charge-backs requested by cardholders
26 cannot be paid from the reserves in these accounts. The Receiver had been
27 attempting to collect funds and records from Paypal who appears to hold
28 approximately \$46,000. Paypal did not cooperate and informed the Receiver that it

1 would only deal with the FTC. Accordingly, the Receiver referred the matter to the
 2 FTC. No significant additional recoveries from credit card processors are expected.

3 **C. Release of Funds to Individual Defendants:** In accordance with the
 4 Court's prior orders the Receiver authorized the release of frozen funds to Four
 5 Defendants – Alan Moore, Mary Dee, Michael Force, and Sean Brown during prior
 6 reporting periods. The Court issued an order granting the FTC's motion to
 7 terminate the release of frozen funds for living expenses of Defendants. At the time
 8 of the Receiver's last report, the balances in Michael Force and Mary Dee's frozen
 9 accounts were as follows:

10 Michael Force \$27,138.29

11 Mary Dee \$8,316.90

12 Since that time, these funds were unfrozen in accordance with the Permanent
 13 Injunctions and Monetary Judgements entered by the Court, and released to
 14 the FTC.

15 **D. Additional assets.** The Receiver is informed that Digital Altitude
 16 made a clerical error and overpaid \$515,000 to an individual named John Souza on
 17 behalf of his company, Paradise Media Ventures, LLC ("PMV"), in connection with
 18 a purported settled contractual dispute. PMV was apparently to have been paid
 19 \$600,000 in settlement, but according to the Receiver's calculations received
 20 \$1,105,000 in settlement payments plus \$10,000 in settlement-related overpayments.
 21 The Receiver demanded return of the funds, but Mr. Souza (through his counsel)
 22 disputed the Receiver's demand and the Receiver filed a motion to compel turnover
 23 which the Court recently denied. The Receiver also sought, and was granted,
 24 authority to be reappointed to allow the Receiver to give notice of his appointment
 25 in Georgia. The Receiver has given notice accordingly and is preparing a complaint
 26 for filing in the State court.

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1 **III. ACCOUNTING**

2 Attached collectively as **Exhibit A** to this Fifth Report are financial
3 statements including, among other items, a Profit and Loss Statement and Balance
4 Sheet for the receivership for the Reporting Period and from its inception through
5 July 31, 2018. The total receipts during the Reporting Period were \$73,381,
6 comprised of \$59,990 from the sale of personal property obtained from Michael
7 Force in accordance with the Permanent Injunction and Monetary Judgement,
8 interest income of \$13,029 and \$391 collected from frozen bank accounts. Excess
9 funds are currently invested in United States Treasury bills. Inception-to-date gross
10 receipts are \$2,118,607, which includes \$36,048 in funds received from consumers
11 following the TRO. The Receiver has established a liability for his amount on the
12 receivership balance sheet, should the Court order these funds returned to consumers
13 in the future. Inception-to-date the Receiver has disbursed \$404,761. The Receiver
14 is holding cash in the amount of \$1,713,846 as of December 31, 2018.

15 **IV. RECEIVER FEES**


16 The Receiver's fees for the reporting period were \$23,399.50. The total
17 receiver fees for the duration of the receivership are \$207,434 and are 11.2% of the
18 gross receipts to the estate.

19 **CONSUMER RELATIONS:**

20 To foster communication with interested parties, the Receiver established the
21 website www.digitalaltitudereceiver.com. The Receiver continues to update this site
22 regularly. Interested parties may sign up to the website to receive notification of
23 website updates by email.

24 Dated: August 15, 2019

THOMAS A. SEAMAN, TEMPORARY
RECEIVER

26
27 By: 
THOMAS A. SEAMAN

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Dated: August 15, 2019

LOEB & LOEB LLP
LANCE N. JURICH
BENJAMIN R. KING

By: /s/ Benjamin R. King
Benjamin R. King
Attorneys for THOMAS A. SEAMAN,
Temporary Receiver