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MONEX DEPOSIT COMPANY and MONEX
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7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT
10 (SOUTHERN DIVISION – SANTA ANA)
11

12 MONEX DEPOSIT COMPANY and
13 MONEX CREDIT COMPANY,

14 Plaintiffs,

15 v.

16 JASON GILLIAM, STEVEN
17 BOWMAN, RICHARD GILLIAM,
and DOES 1–50,

18 Defendants.

Case No. 8:09-CV-00287-JVS-AN

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
TEMPORARY RESTRAINING
ORDER, ORDER TO SHOW
CAUSE, AND ORDER ALLOWING
EARLY AND EXPEDITED
DISCOVERY**

The Hon. James V. Selna

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20 The Court has read plaintiffs’ application for a temporary restraining order,
21 for an order to show cause why a preliminary injunction should not issue
22 continuing the terms of the TRO, and for an order allowing early and expedited
23 discovery. The Court also has considered all evidence, memoranda, and other
24 documents filed by the parties in connection with that application, as well as
25 arguments of counsel and of pro se parties. Based on the foregoing material, the
26 Court finds that good cause exists to grant the requested relief.
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1 The Court finds the following facts:

2 1. A number of customers and potential customers of Monex Deposit
3 Company and Monex Credit Company (collectively, “Monex”) have decided not to
4 do business with the company because of what they have read about Monex on
5 websites operated by or contributed to by defendants Jason Gilliam, Richard
6 Gilliam, and Steven Bowman (collectively “defendants.”) Those websites include
7 www.MonexFRAUD.com.

8 2. Defendants have threatened to publish additional negative material
9 about Monex on www.MonexFRAUD.com and to report Monex’s activities to
10 government and the news media, and to continue to do so, unless the company pays
11 them \$20 million.

12 3. Defendants are likely to continue publishing negative material on those
13 websites, including www.MonexFRAUD.com, and to keep their extortionate
14 threats in place because Monex has refused to pay them.

15 4. The websites are likely immediately to harm Monex by damaging its
16 reputation, customer relationships, business, revenues, and goodwill.

17 5. Such harm will not be compensable through money damages because
18 the amount of damage will not be determinable with sufficient precision.

19 6. Defendants will not suffer any cognizable harm if they are temporarily
20 enjoined from extorting, and attempting to extort, money from Monex by means of
21 threatening to publish negative statements about the company.

22 7. Plaintiffs have provided proper notice of the instant application to
23 Richard Gilliam and Jason Gilliam.

24 8. Plaintiffs have not provided notice to Steven Bowman by fax or
25 personal service because he has not provided plaintiffs with a fax number and
26 because of delays in serving him due to his residence in Canada and procedural
27 requirements of the Hague Convention. Plaintiffs’ provided Mr. Bowman with
28 notice of the application and all pleading submitted to this Court in support thereof

1 via email, which is the usual manner in which Plaintiffs' counsel and Mr. Bowman
2 communicated, as evidenced by exhibits attached to the declaration of Neil A.
3 Goteiner.

4 The Court makes the following conclusions of law:

5 1. Plaintiffs have a reasonable probability of success in this action on one
6 or more theories which would support injunctive relief, including defamation, trade
7 libel, and interference with contract and economic advantage.

8 2. The balance of equities in considering the application for the
9 temporary restraining order tips in Monex's favor.

10 3. This temporary restraining order is in the public interest.

11 4. There is good cause to allow early and expedited depositions to be
12 taken in preparation for the hearing on the order to show cause.

13 IT IS ORDERED THAT:

14 A. Defendants and anyone acting in concert with them or on their behalf
15 ARE HEREBY RESTRAINED AND ENJOINED FROM:

16 i. Any efforts to extort consideration from Monex, including any
17 efforts to persuade Monex to pay defendants money which directly or
18 indirectly involves: (1) threats against Monex or its employees to publish in
19 any forum or to share information about Monex with third parties, or (2)
20 threats to defame Monex or its employees, unless Monex pays defendants.

21 ii. Disclosing or using directly or indirectly in any way any trade
22 secret documentation or other proprietary information belonging to Monex,
23 including all internal Monex documents which are not public, such as Monex
24 customer lists.

25 iii. Retaining any trade secret or proprietary information referred to
26 in the last paragraph. To implement this part of the Order, defendants must
27 disclose to and return to Monex within 48 hours of entry of this Order all
28 such information and documentation within defendants' possession, or within

1 possession of anyone within defendants' control. To the extent that
2 defendants once had possession of such documentation, but no longer have
3 possession, defendants must within 48 hours also inform Monex's counsel in
4 writing and in specific and sufficient detail: (1) all efforts defendants have
5 made to re-acquire such documentation; (2) what became of such
6 documentation, including the time and date defendants lost control of the
7 documentation; and (3) who presently has possession of this documentation
8 so that Monex can take steps to recover the documentation.

9 B. This order shall be effective as soon as plaintiffs or either of them
10 properly have posted a bond in the amount of \$ 20,000.

11 C. This order shall expire at 5:00 p.m. April 7, 2009.

12 D. Defendants are ordered to show cause why a preliminary injunction
13 should not issue, continuing the terms of the temporary restraining order until
14 judgment or dismissal and adding the following additional terms:

15 i. Publishing or republishing any negative statements about Monex
16 on any website, including, but not limited to, www.MonexFRAUD.com,
17 www.youtube.com, <http://digg.com>, <http://goldismoney.info>, and
18 <http://americannepali.blogspot.com>. This part of the order requires
19 defendants to remove, from any website over which they have sufficient
20 control, all negative material about Monex that they have published or
21 republished there, and to stop using the world MonexFRAUD, all within 24
22 hours of the entry of a preliminary injunction.

23 ii. Operating, directly or indirectly, www.MonexFRAUD.com, or
24 other websites critical of Monex. All such websites and their contents must
25 be removed from the public's access, all within 24 hours of the entry of a
26 preliminary injunction.

27 E. Plaintiffs may file and serve papers in support of their request for a
28 preliminary injunction, including a memorandum of points and authorities and

1 documentary evidence, no later than March 26, 2009.

2 F. Defendants may file and serve a return to the order to show cause and
3 papers in opposition to or otherwise responding to the request for preliminary
4 injunction no later than April 1, 2009.

5 G. Plaintiffs may file and serve papers replying to defendants' return and
6 any opposition no later April 3, 2009.

7 H. A hearing on the order to show cause will be held on April 7, 2009 at
8 3:00 p.m., or as soon thereafter as the parties may be heard, in Courtroom 10C, U.S.
9 District Courthouse, 411 West Fourth Street, Santa Ana, California.

10 I. Monex, on the one hand, and defendants, collectively, on the other
11 hand, may depose by oral examination up to three people or entities in preparation
12 for the preliminary injunction hearing. The depositions can be taken on two
13 calendar days' notice or longer so long as they occur on business days. All other
14 usual rules of deposition apply.

15 J. Monex, on the one hand, and defendants, collectively, on the other
16 hand, may serve 20 requests for production of documents and things in preparation
17 for the preliminary injunction hearing. Responses to the requests must be served
18 within four days or produced at the next deposition of the responding party,
19 provided that the requests are served at least one court day before the deposition.

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21 Dated: March 24, 2009

22 Time: Noon

By: 
U.S. DISTRICT COURT JUDGE

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