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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 FOURTH 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 Fourth 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 covers the period from October 1, 2018 through December 31, 2018
6 ("the Reporting Period").

7 **II. STATUS REPORT**

8 **A. Frozen Funds:** As previously reported, the Receiver took continued to
9 take possession of the Receivership Entities' frozen funds in accordance with the
10 TRO and Preliminary Injunction. A number of bank accounts of the Receivership
11 Entities were frozen upon entry of the TRO. Based upon information gathered from
12 Digital Altitude's digital books and records, the Receiver identified additional non-
13 named parties and took actions to freeze their bank accounts. On February 28,
14 2018, the Receiver filed his "Notice of Identification of Nonparties as Receivership
15 Parties pursuant to Temporary Restraining Order." [See Docket # 82]. No
16 additional accounts were identified during the Reporting Period, nor were any
17 additional funds collected by the Receiver. Through December 31, 2018, the
18 Receiver has taken possession of \$2,009,149.22.

19 **B. Merchant Account Payment Processors:** Most of Digital Altitude's
20 customers paid their fees with a credit card and Digital Altitude used a very large
21 network of merchant accounts to facilitate the payment of members' fees. The
22 Receiver has provided notice of the freeze order and TRO to known merchant
23 account processors and has instructed them that charge-backs requested by
24 cardholders cannot be paid from the reserves in these accounts. The Receiver is
25 attempting to collect funds and records from Paypal who appears to hold
26 approximately \$46,000. Aside from these funds, no significant additional recoveries
27 from credit card processors are expected.

28

1 **C. Release of Funds to Individual Defendants:** In accordance with the
 2 Court’s prior orders the Receiver authorized the release of frozen funds to Four
 3 Defendants – Alan Moore, Mary Dee, Michael Force, and Sean Brown during prior
 4 reporting periods. The Court issued an order granting the FTC’s motion to
 5 terminate the release of frozen funds for living expenses of Defendants and there
 6 were no releases during the reporting period. The current balances in Michael Force
 7 and Mary Dee’s frozen accounts are as follows:

8	Michael Force	\$27,138.29
9	Mary Dee	\$8,316.90

10 **D. Additional assets.** The Receiver is informed that Digital Altitude
 11 made a clerical error and overpaid \$515,000 to an individual named John Souza on
 12 behalf of his company, Paradise Media Ventures, LLC (“PMV”), in connection with
 13 a purported settled contractual dispute. PMV was apparently to have been paid
 14 \$600,000 in settlement, but according to the Receiver’s calculations received
 15 \$1,105,000 in settlement payments plus \$10,000 in settlement-related overpayments.
 16 The Receiver is in the process of obtaining turnover of the excess funds to the
 17 receivership, but Mr. Souza (through his counsel) has disputed the Receiver’s
 18 demand and the Receiver may need to seek the assistance of the Court if the funds
 19 are not returned. The Receiver continues to seek return of the funds based on a
 20 certain evidence recently provided by Defendant Mary Dee to the Receiver, and
 21 based upon that evidence is seeking to recover the funds without the assistance of
 22 the Court. To date, those efforts have not been fruitful and, while settlement
 23 discussions continue, the Receiver is currently preparing a motion to obtain
 24 turnover.

25 **III. ACCOUNTING**

26 Attached collectively as **Exhibit A** to this Fourth Report is a Profit and Loss
 27 Statement and Balance Sheet for the receivership from its inception through
 28 December 31, 2018. There were no receipts or disbursements during the Reporting

1 Period. Excess funds are currently invested in zero coupon treasury bills and
2 interest income will be reflected on maturity in the next reporting period. Inception-
3 to-date gross receipts are \$2,009,149, which includes \$36,048 in funds received
4 from consumers following the TRO. The Receiver has established a liability for his
5 amount on the receivership balance sheet, should the Court order these funds
6 returned to consumers in the future. Inception-to-date the Receiver has disbursed
7 \$230,689. The Receiver is holding cash in the amount of \$1,814,509 as of
8 December 31, 2018.

9 **IV. RECEIVER FEES**

10 The Receiver’s fees for the reporting period were \$4,958.50. The total
11 receiver fees for the duration of the receivership are \$207,434 and are 10.6% of the
12 gross receipts to the estate.

13 **CONSUMER RELATIONS:**

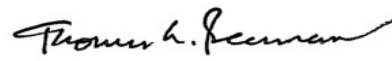
14 To foster communication with interested parties, the Receiver established the
15 website www.digitalaltitudereceiver.com. The Receiver continues to update this site
16 regularly. Interested parties may sign up to the website to receive notification of
17 website updates by email.

18 Dated: February 6, 2019

THOMAS A. SEAMAN, TEMPORARY
RECEIVER

19

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By: 
THOMAS A. SEAMAN

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22

23 Dated: February 6, 2019

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

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

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EXHIBIT A

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Accrual Basis

Digital Altitude LLC in Receivership**Balance Sheet**

As of December 31, 2018

	<u>Dec 31, 18</u>
ASSETS	
Current Assets	
Checking/Savings	
Wells Fargo Operating 4499	1,814,508.63
Total Checking/Savings	<u>1,814,508.63</u>
Total Current Assets	<u>1,814,508.63</u>
TOTAL ASSETS	<u>1,814,508.63</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Post TRO Consumer Payments	36,048.00
Total Other Current Liabilities	<u>36,048.00</u>
Total Current Liabilities	<u>36,048.00</u>
Total Liabilities	36,048.00
Equity	
Net Income	1,778,460.63
Total Equity	<u>1,778,460.63</u>
TOTAL LIABILITIES & EQUITY	<u>1,814,508.63</u>

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Accrual Basis

Digital Altitude LLC in Receivership**Profit & Loss**

As of December 31, 2018

	<u>Dec 31, 18</u>
Ordinary Income/Expense	
Income	
Turnover/Seizure	2,009,149.22
Total Income	<u>2,009,149.22</u>
Expense	
Bank Service Charges	58.42
Computer and Internet Expenses	9,258.46
Outside Services	
Document Reproduction	603.36
Misc Services	323.00
Postage & Delivery	1,581.23
Total Outside Services	<u>2,507.59</u>
Professional Fees	
Receiver's Counsel Fees	62,974.51
Receiver Fees	137,886.00
Tax Accountants	17,000.00
Total Professional Fees	<u>217,860.51</u>
Travel Expense	1,003.61
Total Expense	<u>230,688.59</u>
Net Ordinary Income	<u>1,778,460.63</u>
Net Income	<u><u>1,778,460.63</u></u>