IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:21-CV-251-BO

BERINGER COMMERCE, INC. d/b/a BLUE ACORN iCi,

Plaintiff,

v.

FIN CAP, INC. d/b/a "BLUEACORN.CO," BLUE ACORN PPP, LLC, BLUE OAK FOREST, LLC, MICHAEL S. COTA, JIMMY FLORES, STEPHANIE HOCKRIDGE REIS, and NATHAN REIS,

Defendants.

PROPOSED ORDER GRANTING PLAINTIFF'S MOTION TO HOLD DEFENDANTS IN CONTEMPT OF COURT AND FOR AWARD OF DAMAGES, COSTS, AND FEES

Upon consideration of Plaintiff's Motion to Hold Defendants in Contempt of Court and for Award of Damages, Costs, and Fees, the Court GRANTS the motion and FINDS that that clear and convincing evidence supports the following findings:

1. This Court's June 11, 2021 TRO Order is a valid decree of which Defendants FIN CAP, INC. d/b/a "BLUEACORN.CO," BLUE ACORN PPP, LLC, BLUE OAK FOREST, LLC, MICHAEL S. COTA, JIMMY FLORES, STEPHANIE HOCKRIDGE REIS and NATHAN REIS had actual or constructive knowledge;

2. The June 11, 2021 TRO Order was entered in Plaintiff's favor;

3. Defendants have failed to comply with the June 11, 2021 TRO Order in most material respects and have had adequate notice and opportunity to cure their violations; and

4. Plaintiff continues to suffer irreparable injury in the form of actual consumer confusion, the likelihood of continued consumer confusion, Plaintiff's inability to conduct its own

business affairs due to the volume of Defendants' customer complaints directed to Plaintiff, and serious reputational harm as a result of Defendants' refusal to cease their infringing activities and comply with the June 11, 2021 TRO Order.

As such, this Court determines that Defendants are in civil contempt based on their violations of the June 11, 2021 TRO Order, and shall fully and strictly comply with the same no later than June 16, 2021.

This Court will separately take up the issue of damages, costs, and fees.

SO ORDERED, this the ___ day of June, 2021.

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TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE