

**CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION**

**In re:**

**FOCUS III, INC.,**

**Assignor,**

**To**

**LARRY S. HYMAN**

**Assignee.**

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**Case No. 10-008018**

**Division: G**

**ASSIGNEE'S MOTION FOR AUTHORITY  
TO CONTINUE BUSINESS OPERATIONS OF THE  
ASSIGNOR PENDING SALE AND/OR LIQUIDATION OF ASSETS**

**PLEASE TAKE NOTICE**, all creditors and interested parties have **20 days** from the date of service of this motion to object to the Assignee's Motion to Continue Business Operations of the Assignor Pending Sale and/or Liquidation of Assets in this assignment proceeding. You must file your objection to this Notice with Pat Frank, Clerk of the Court, Thirteenth Judicial Circuit, George E. Edgecomb Courthouse - 800 E. Twiggs Street, Tampa, FL 33602 and serve a copy on Susan H. Sharp, Esquire, Stichter Riedel Blain & Prosser, 110 E. Madison Street, Suite 200, Tampa, Florida 33602. If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified.

Assignee, LARRY S. HYMAN, by and through the undersigned counsel, hereby moves the Court to permit the Assignee to continue the business operations of Focus III, Inc. (the "Assignor") pending the sale and/or liquidation of the Assignor's assets (the "Motion") pursuant to Fla. Stat. §727.108(4), and states the following in support thereof:

1. On April 12, 2010 ("Petition Date"), a Petition was filed with the Court initiating an assignment for the benefit of creditors (the "Assignment").

2. Under the terms of the Assignment, Larry Hyman became the Assignee of all the assets (the “**Assets**”) of the Assignor.

3. The Assignor had been engaged in the business of direct response marketing in its business premises located at 9119 Corporate Lake Drive, Suite 200, Tampa, Florida 33634, in Hillsborough County, Florida.

4. At this time, the Assignee has determined that in order to maximize recovery of the value of the assets, it would be in the best interest of the creditors of this estate to allow the Assignee to continue operating the business for a limited period of time, during which time the Assignee will attempt to sell the assets for the highest price and at the conclusion of such sales will auction, if necessary, the balance of the inventory and equipment. The continuation of the business for this limited period of time, which is expected not to exceed ninety (90) days from the Petition Date, will also assist the Assignee in collection of the accounts receivable.

5. Assignee anticipates obtaining an offer to purchase the Assignor’s Assets in the immediate future. Upon securing same, the Assignee will file with the Court a motion for authority to sell the assets.

6. Fla. Stat. §727.108(4) provides that the Assignee, upon notice, may operate the business of the Assignor for forty-five (45) days or until such time as an objection is sustained by the Court if it is in the best interest of the estate.

7. The Assignee proposes that Focus Direct, LLC (“**Focus Direct**”) operate the business pursuant to the Operating Agreement, attached hereto as Exhibit “A”, which generally provides that all post-assignment obligations will be paid in the normal course

and all non-ordinary course expenditures will have to be approved by the Assignee. In all other respects, the Assignor's business will be operated to preserve the status quo.

8. Focus Direct is a limited liability company organized under the laws of the State of Florida, which was formed by the prior management of the Assignor and who have the knowledge and experience to operate the Assignor's business.

9. By agreement, the Assignee will utilize Focus Direct to operate the business for a short period of time pending the sale of the Assignor's Assets. The Assignor and Focus Direct agree that the business must be operated on at least a "break even" basis, no post-assignment claims can accrue and operation of the business is expressly conditioned upon Assignee's consent and supervision.

10. The Assignee and Focus Direct, subject to Court approval, agree that Focus Direct may operate the Assignor's business in the ordinary course of business provided that the status quo is maintained. If the business is not operated pursuant to reasonable business judgment standards, the Assignee may immediately seek to terminate operations by notifying Focus Direct.

11. The principal purpose of this Motion and the Operating Agreement is to preserve value for the creditors, specifically the good will associated with the business.

12. As a result, Assignee respectfully requests that the Court authorize the continued operation of the business in order to preserve the good will and value of the Assets. The preservation of Assignor's value will benefit all creditors of the Estate.

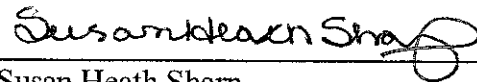
13. Unless a creditor timely objects to the interim operation of the business, and the objection is sustained, Assignee will seek a court order authorizing the continued operation under the terms set forth herein.

14. An expedited hearing will be scheduled based upon the need for the continued operation of the business but the filing of this Motion will place creditors on notice of the continued operation pending a Court ruling.

15. If no objections to this Motion have been filed with the Court by May 16, 2010, the Assignee requests the Court enter an order in the form attached hereto as Exhibit "B".

WHEREFORE, the Assignee respectfully requests that the Court enter an Order pursuant to Florida Statutes § 727.109(3) authorizing the Assignee to operate the business for ninety (90) days to allow the Assignee to sell the Assets and such further relief that the Court deems just, equitable and appropriate.

DATED: April 26, 2010



Susan Heath Sharp  
Florida Bar No. 0716421  
[ssharp@srbp.com](mailto:ssharp@srbp.com)  
STICHTER, RIEDEL, BLAIN  
& PROSSER, P.A.  
110 Madison Street - Suite 200  
Tampa, Florida 33602  
(813) 229-0144  
(813) 229-1811 FAX  
ATTORNEYS FOR ASSIGNEE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing ASSIGNEE'S MOTION FOR AUTHORITY TO CONTINUE BUSINESS OPERATIONS OF THE ASSIGNOR PENDING SALE AND/OR LIQUIDATION OF ASSETS with attached Exhibits, has been furnished on this 26<sup>th</sup> day of April 2010, by **Electronic Mail** and **U.S. Mail** to the following:

Larry S. Hyman, Assignee  
PO Box 18614  
Tampa, Florida 33679

for service on:

All parties listed on the Limited Matrix. Upon service to such parties, a representative of Assignee will file with the Court an affidavit of service.

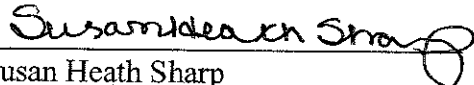
  
\_\_\_\_\_  
Susan Heath Sharp  
Florida Bar No. 0716421  
[ssharp@srbp.com](mailto:ssharp@srbp.com)

EXHIBIT A

## OPERATING AGREEMENT

Date – April 22, 2010

Assignee – Larry S. Hyman, as Assignee for Focus, III, Inc.

Operator – **FOCUS DIRECT, LLC**

Assignor\Business – Focus, III, Inc. (d/b/a Focus)

Property – All tangible and intangible personal property located at 8404 Wilsky Blvd., Tampa, FL 33615 (formerly located at 9119 Corporate Lake Dr., Suite 200, Tampa, FL 33634) as listed in Assignor's Assignment for the Benefit of Creditor's (Schedule B) or as otherwise owned by Assignor/Business, including without limitation the property set forth in books, records, and tax returns of the Assignor/Business.

Assignee hereby enters into this Operating Agreement with Operator in which the Operator is authorized use of Property (as described above) pending consummation of sale of said property.

Operator agrees that it will protect the Property and keep all property in the same working condition as when delivered to them. Any repairs required to be made to Property, due to damage or mechanical breakdown, during the period of this agreement will be made by Operator at their expense.

**No Property** shall be sold, replaced, transferred, destroyed or removed from its present locations without the consent of Assignee.

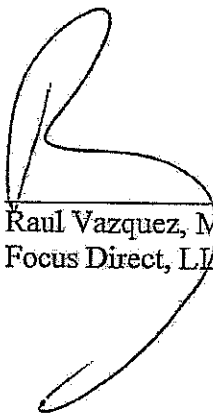
At the Assignee's request, Operator agrees that it shall, at its expense, place insurance (casualty, theft, fire, liability) on all Property in the sum of at least \$250,000 and shall have the Assignee, Larry S. Hyman, listed as "additional Loss Payee" on all insurance policies placed on Property.

Operator agrees to pay all ordinary and necessary Operating Expenses of Assignor\Business while operating said business. Expenses include, but are not limited to rents, payroll, payroll taxes, utilities, inventory purchases & insurance. Further, Operator agrees that if Assignor\Business revenues are not sufficient to pay all Operating Expenses of Assignor\Business, Operator will infuse sufficient capital to pay all Operating Expenses. If Operator cannot or is unwilling to infuse sufficient capital to pay all Operating Expenses, as they come due, Assignee can, at his discretion, shut down and terminate all Operations of the Assignor\Business immediately.

This Agreement shall automatically terminate upon the Assignee delivering to Operator a Bill of Sale pursuant to Offer to Purchase for, or the Circuit Court of Hillsborough County Florida denying the sale of, the Property as described above and Operator surrendering all Property to Assignee in the same condition as was delivered to it.

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Larry S. Hyman, Assignee



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Raul Vazquez, Manager  
Focus Direct, LLC (Operator)

EXHIBIT B

**CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION**

**In re:**

**FOCUS III, INC.,**

**Assignor,**

**To**

**LARRY S. HYMAN**

**Assignee.**

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**Case No. 10-008018**

**Division: G**

**ORDER GRANTING ASSIGNEE'S MOTION FOR  
AUTHORITY TO CONTINUE BUSINESS OPERATIONS  
OF THE ASSIGNOR PENDING SALE AND/OR LIQUIDATION OF ASSETS**

THIS CASE came on for consideration, upon the Assignee's Motion for Authority to Continue Business Operations of the Assignor Pending Sale and/or Liquidation of Assets (the "**Motion**"). The Court, having considered the Motion, the record and the applicable law, finds that the continuation of the business operations by the Assignee would be in the best interest of the estate. Accordingly, it is

ORDERED that:

1. The Motion is Granted.
2. The Assignee is authorized, in his capacity as Assignee, to continue to operate the Assignor's business utilizing Focus Direct, LLC pursuant to the terms set forth in the Operating Agreement attached as Exhibit "A" to this Order.
3. The Assignee is authorized to continue the business operations of the Assignor for a period not to exceed 90 days, from the date of this Order.

4. The Assignee shall have the discretion to authorize the operation of the business, in accordance with Florida Statute 727. In the event the business is not operated at least at a “break even” level, the Assignee may immediately require the cessation of the business. The purpose of this provision of the Order is to maintain the status quo pending a further order of the Court.

5. During Assignee’s operation of business post-assignment, no diminution of assets from the estate will be permitted.

6. The Assignee may seek an extension of the 90-day period upon motion to this Court.

**DONE and ORDERED** in Chambers in Tampa, Florida on this \_\_\_\_\_ day of May, 2010.

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Martha J. Cook  
Circuit Court Judge

**Copies to:**

Susan Heath Sharp, Esquire  
Stichter, Riedel, Blain & Prosser, P.A.  
110 East Madison Street - Suite 200  
Tampa, Florida 33629  
Attorneys for the Assignee

Larry S. Hyman, Assignee  
PO Box 18614  
Tampa, Florida 33679

(For service on all listed on the Limited Matrix. Upon service to such parties, a representative of Assignee will file with the Court an affidavit of service.)