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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMERICAN HOME SERVICING
CENTER, LLC,

CAPITAL HOME ADVOCACY
CENTER,

NATIONAL ADVOCACY CENTER,
LLC,

JAIME ABURTO, a/k/a James Aburto,
and Jamie Aburto, individually, as an
officer of American Home Servicing
Center, LLC and National Advocacy
Center, LLC, and d/b/a A.H.S.C.,
American Home Servicing Center, Local
Page, NAC, National Servicing Center,
NSC Processing, and Secured Processing,

MARCUS FIERRO, JR., individually, as a
member of American Home Servicing
Center, LLC and National Advocacy
Center, LLC, and d/b/a A.H.S.C. and
American Home Servicing Center,

EVE CHRISTINE RODRIGUEZ, a/k/a
Elizabeth Davis, Elizabeth Powers,
Christina Rodriguez, Christine Rodriguez,
and Elizabeth Rodriguez, individually, as a
manager of American Home Servicing
Center, LLC, a member of Capital Home
Advocacy Center, and d/b/a National

**Case No. SACV 18-00597-JLS-
KESx**

**[PROPOSED]
PRELIMINARY
INJUNCTION WITH ASSET
FREEZE, APPOINTMENT
OF RECEIVER, LIMITED
EXPEDITED DISCOVERY,
AND OTHER EQUITABLE
RELIEF AS TO
DEFENDANTS AMERICAN
HOME SERVICING
CENTER, LLC, CAPITAL
HOME ADVOCACY
CENTER, NATIONAL
ADVOCACY CENTER, LLC,
MARCUS FIERRO, AND
EVE CHRISTINE
RODRIGUEZ**

1 Advocacy Group,
2 and SERGIO LORENZO RODRIGUEZ,
3 a/k/a Sergio Lawrence, individually, as a
4 manager of American Home Servicing
5 Center, LLC, a member of Capital Home
6 Advocacy Center, and d/b/a National
7 Advocacy Group,
8
9 Defendants.

9 Plaintiff, the Federal Trade Commission (“FTC”), pursuant to Section 13(b)
10 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the
11 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524,
12 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card
13 Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24,
14 Section 511, 123 Stat. 1734, 1763-64 (Mar. 22, 2009) (“Credit Card Act”), and
15 amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act,
16 Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010)
17 (“Dodd-Frank Act”), 12 U.S.C. § 5538, has filed a complaint to obtain temporary,
18 preliminary, and permanent injunctive relief, rescission or reformation of
19 contracts, restitution, the refund of monies paid, disgorgement of ill-gotten
20 monies, and other equitable relief for Defendants’ acts or practices in violation of
21 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Mortgage Assistance
22 Relief Services Rule, 12 C.F.R. Part 1015 (“Regulation O”), and has applied for a
23 preliminary injunction order pursuant to Rule 65(b) of the Federal Rules of Civil
24 Procedure.

25 On April 12, 2018, this court issued its *Ex Parte Temporary Restraining*
26 *Order with Asset Freeze, Appointment of Temporary Receiver, Limited Expedited*
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1 *Discovery, and Order to Show Cause Why Preliminary Injunction Should Not*
2 *Issue.* DE 20 (“TRO”). Defendants were ordered to appear at a hearing on April
3 26, 2018 to “show cause, if there is any, why this Court should not enter a
4 preliminary injunction, pending final ruling on the Complaint against Defendants,
5 enjoining the violations of the law alleged in the Complaint, continuing the freeze
6 of their Assets, continuing the receivership, and imposing such additional relief as
7 may be appropriate.” *Id.* at 30. Returns of service for American Home Servicing
8 Center, LLC, National Advocacy Center, LLC, Marcus Fierro, and Eve Christine
9 Rodriguez were filed by Plaintiffs via ECF. DEs 24-27. Capital Home Advocacy
10 Center was served, but return of service was not filed as of the date of this filing
11 due to a clerical error by the service processor, which Plaintiffs are working to
12 resolve. This Court further ordered Defendants to file with the court and upon
13 FTC counsel by April 20, 2018, “any answering pleadings, affidavits, motions,
14 expert reports or declarations, or legal memoranda.” No Defendant has responded
15 to the Court’s Order as of the date of this filing.

16 Having considered the parties’ pleadings, papers, and argument, the Court
17 hereby **GRANTS** the Preliminary Injunction against Defendants American Home
18 Servicing Center, LLC, Capital Home Advocacy Center, National Advocacy
19 Center, LLC, Marcus Fierro, and Eve Christine Rodriguez..

20 **FINDINGS OF FACT**

21 This Court, having considered the FTC’s Complaint, *ex parte* application,
22 declarations, exhibits, and memoranda filed in support of the FTC’s application,
23 and the evidence presented, finds that:

- 24 1. This Court has jurisdiction over the subject matter of this case, and
25 there is good cause to believe it will have jurisdiction over all parties hereto;
26 2. There is good cause to believe that venue lies properly with this
27 Court;

1 3. On April 11, 2018, the FTC filed its *Complaint and Memorandum in*
2 *Support of Ex Parte Application for Temporary Restraining Order with Asset*
3 *Freeze, Appointment of Temporary Receiver, Limited Expedited Discovery, and*
4 *Order to Show Cause Why Preliminary Injunction Should Not Issue* (“*Ex Parte*
5 *Memo*”) and related pleadings. DE 1, 2; DE 7-9, 12-17;

6 4. On April 12, 2018, the Court entered its *Ex Parte Temporary*
7 *Restraining Order with Asset Freeze, Appointment of Temporary Receiver,*
8 *Limited Expedited Discovery, and Order to Show Cause Why Preliminary*
9 *Injunction Should Not Issue*. DE 20;

10 5. The TRO, and all of the related pleadings, was served on American
11 Home Servicing Center, LLC, Capital Home Advocacy Center (return of service
12 not yet filed via ECF), National Advocacy Center, LLC, Marcus Fierro, and Eve
13 Christine Rodriguez by personal service pursuant to Rule 4 of the Federal Rules of
14 Civil Procedure. DEs 24-27.

15 6. There is good cause to believe that the Court’s ability to grant
16 effective final relief for consumers in the form of monetary restitution and
17 disgorgement of ill-gotten gains will suffer immediate and irreparable damage
18 from Defendants’ transfer, dissipation, or concealment of Assets or business
19 records unless Defendants continue to be restrained and enjoined by Order of this
20 Court;

21 7. Good cause exists to appoint a permanent Receiver for the Corporate
22 Defendants;

23 8. Good cause exists to permit the FTC to take limited expedited
24 discovery from third parties as to the existence and location of Assets and
25 Documents;

26 9. Weighing the equities and considering the FTC’s likelihood of
27 ultimate success, a preliminary injunction order with an Asset freeze, limited
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1 expedited discovery as to the existence and location of Assets and Documents,
2 and other equitable relief is in the public interest; and

3 10. No security is required of any agency of the United States for the
4 issuance of a preliminary injunction order. Fed. R. Civ. P. 65(c).

5 **DEFINITIONS**

6 For the purpose of this Order, the following definitions apply:

7 A. “**Asset**” means any legal or equitable interest in, right to, or claim to,
8 any property, wherever located and by whomever held.

9 B. “**Asset Freeze Accounts**” includes accounts that are held by or for
10 the benefit of, or controlled by, directly or indirectly, any Corporate Defendant,
11 Individual Defendant, and other Receivership Entities.

12 C. “**Corporate Defendants**” means, collectively, American Home
13 Servicing Center, LLC (“American Home”), Capital Home Advocacy Center
14 (“Capital Home”), and National Advocacy Center, LLC (“National Advocacy”),
15 and each of their subsidiaries, affiliates, successors, and assigns.

16 D. “**Defendant(s)**” means Corporate Defendants, Jaime Aburto, Marcus
17 Fierro, Jr., Christina Rodriguez, and Sergio Lorenzo Rodriguez, individually,
18 collectively, or in any combination.

19 E. “**Document**” is synonymous in meaning and equal in scope to the
20 usage of “document” and “electronically stored information” in Federal Rule of
21 Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings,
22 graphs, charts, photographs, sound and video recordings, images, Internet sites,
23 web pages, websites, electronic correspondence, including e-mail and instant
24 messages, contracts, accounting data, advertisements, FTP Logs, Server Access
25 Logs, books, written or printed records, handwritten notes, telephone logs,
26 telephone scripts, receipt books, ledgers, personal and business canceled checks
27 and check registers, bank statements, appointment books, computer records,
28

1 customer or sales databases and any other electronically stored information,
2 including Documents located on remote servers or cloud computing systems, and
3 other data or data compilations from which information can be obtained directly
4 or, if necessary, after translation into a reasonably usable form. A draft or non-
5 identical copy is a separate document within the meaning of the term.

6 F. “**Electronic Data Host**” means any person or entity in the business
7 of storing, hosting, or otherwise maintaining electronically stored information.
8 This includes, but is not limited to, any entity hosting a website or server, and any
9 entity providing “cloud based” electronic storage.

10 G. “**Individual Defendant(s)**” means Jaime Aburto, Marcus Fierro, Jr.,
11 Christina Rodriguez, and Sergio Lorenzo Rodriguez, individually, or in any
12 combination.

13 H. “**Receiver**” means the receiver appointed in Section XI of this Order
14 and any deputy receivers that shall be named by the receiver.

15 I. “**Receivership Entities**” means Corporate Defendants as well as any
16 other entity that has conducted any business related to Defendants’ mortgage
17 assistance operation, including receipt of Assets derived from any activity that is
18 the subject of the Complaint in this matter, and that the Receiver determines is
19 controlled or owned by any Defendant, including Capital Freedom Mortgage
20 Solutions and Local Page, LLC.

21 **ORDER**

22 **I. PROHIBITED BUSINESS ACTIVITIES**

23 **IT IS THEREFORE ORDERED** that Defendants, their officers, agents,
24 employees, and attorneys, and all other persons in active concert or participation
25 with them, who receive actual notice of this Order by personal service or
26 otherwise, whether acting directly or indirectly, in connection with the
27 advertising, marketing, promoting, or offering for sale of any goods or services,
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1 are restrained and enjoined from misrepresenting or assisting others in
2 misrepresenting, expressly or by implication, any material fact, including, but not
3 limited to:

4 A. Defendants' likelihood of obtaining mortgage loan modifications on
5 behalf of consumers;

6 B. Defendants' confirmation of mortgage loan modifications on behalf
7 of consumers; and

8 C. Any other fact material to consumers concerning any good or service,
9 such as: the total costs; any material restrictions, limitations, or conditions; or any
10 material aspect of its performance, efficacy, nature, or central characteristics.

11 **II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

12 **IT IS FURTHER ORDERED** that Defendants, their officers, agents,
13 employees, and attorneys, and all other persons in active concert or participation
14 with any of them, who receive actual notice of this Order, whether acting directly
15 or indirectly, are hereby restrained and enjoined from:

16 A. Selling, renting, leasing, transferring, or otherwise disclosing, the
17 name, address, birth date, telephone number, email address, credit card number,
18 bank account number, Social Security number, or other financial or identifying
19 information of any person that any Defendant obtained in connection with any
20 activity that pertains to the subject matter of this Order; and

21 B. Benefitting from or using the name, address, birth date, telephone
22 number, email address, credit card number, bank account number, Social Security
23 number, or other financial or identifying information of any person that any
24 Defendant obtained in connection with any activity that pertains to the subject
25 matter of this Order.

26 Provided, however, that Defendants may disclose such identifying
27 information to a law enforcement agency, to their attorneys as required for their
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1 defense, as required by any law, regulation, or court order, or in any filings,
2 pleadings or discovery in this action in the manner required by the Federal Rules
3 of Civil Procedure and by any protective order in the case.

4 **III. ASSET FREEZE**

5 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
6 employees, and attorneys, and all other persons in active concert or participation
7 with any of them, who receive actual notice of this Order, whether acting directly
8 or indirectly, are hereby restrained and enjoined from:

9 C. Transferring, liquidating, converting, encumbering, pledging,
10 loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing,
11 spending, withdrawing, granting a lien or security interest or other interest in, or
12 otherwise disposing of any Assets that are:

- 13 1. Asset Freeze Accounts;
- 14 1. owned or controlled, directly or indirectly, by any Defendant;
- 15 2. held, in part or in whole, for the benefit of any Defendant;
- 16 3. in the actual or constructive possession of any Defendant; or
- 17 4. owned or controlled by, in the actual or constructive
18 possession of, or otherwise held for the benefit of, any corporation,
19 partnership, asset protection trust, or other entity that is directly or
20 indirectly owned, managed or controlled by any Defendant.

21 D. Opening or causing to be opened any safe deposit boxes, commercial
22 mail boxes, or storage facilities titled in the name of any Defendant or subject to
23 access by any Defendant, except as necessary to comply with written requests
24 from the Receiver acting pursuant to its authority under this Order;

25 E. Incurring charges or cash advances on any credit, debit, or ATM card
26 issued in the name, individually or jointly, of any Corporate Defendant or any
27 corporation, partnership, or other entity directly or indirectly owned, managed, or
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1 controlled by any Defendant or of which any Defendant is an officer, director,
2 member, or manager. This includes any corporate bankcard or corporate credit
3 card account for which any Defendant is, or was on the date that this Order was
4 signed, an authorized signor; or

5 F. Cashing any checks or depositing any money orders or cash received
6 from consumers, clients, or customers of any Defendant.

7 The Assets affected by this Section shall include: (1) all Assets of
8 Defendants as of the time the TRO was entered; and (2) Assets obtained by
9 Defendants after the TRO was entered if those Assets are derived from any
10 activity that is the subject of the Complaint in this matter or that is prohibited by
11 this Order. This Section does not prohibit any transfers to the Receiver or
12 repatriation of foreign Assets specifically required by this order.

13 **IV. DUTIES OF ASSET HOLDERS AND OTHER THIRD**
14 **PARTIES**

15 **IT IS FURTHER ORDERED** that any financial or brokerage institution,
16 Electronic Data Host, credit card processor, payment processor, merchant bank,
17 acquiring bank, independent sales organization, third party processor, payment
18 gateway, insurance company, business entity, or person who receives actual notice
19 of this Order (by service or otherwise) that:

20 (a) has held, controlled, or maintained custody, through an account or
21 otherwise, of any Document on behalf of any Defendant or any Asset that has
22 been: owned or controlled, directly or indirectly, by any Defendant; held, in part
23 or in whole, for the benefit of any Defendant; in the actual or constructive
24 possession of any Defendant; or owned or controlled by, in the actual or
25 constructive possession of, or otherwise held for the benefit of, any corporation,
26 partnership, asset protection trust, or other entity that is directly or indirectly
27 owned, managed or controlled by any Defendant;

1 (b) has held, controlled, or maintained custody, through an account or
2 otherwise, of any Document or Asset associated with credits, debits, or charges
3 made on behalf of any Defendant, including reserve funds held by payment
4 processors, credit card processors, merchant banks, acquiring banks, independent
5 sales organizations, third party processors, payment gateways, insurance
6 companies, or other entities;

7 (c) has extended credit to any Defendant, including through a credit card
8 account, shall:

9 A. Hold, preserve, and retain within its control and prohibit the
10 withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance,
11 disbursement, dissipation, relinquishment, conversion, sale, or other disposal of
12 any such Document or Asset, as well as all Documents or other property related to
13 such Assets, except by further order of this Court; provided, however, that this
14 provision does not prohibit a Individual Defendant from incurring charges on a
15 personal credit card established prior to entry of this Order, up to the pre-existing
16 credit limit;

17 B. Deny any person, except the Receiver, access to any safe deposit box,
18 commercial mail box, or storage facility that is titled in the name of any
19 Defendant, either individually or jointly, or otherwise subject to access by any
20 Defendant;

21 C. Provide Plaintiff's counsel and the Receiver, within three (3) days of
22 receiving a copy of this Order, a sworn statement setting forth, for each Asset or
23 account covered by this Section:

- 24 1. The identification number of each such account or Asset;
- 25 2. The balance of each such account, or a description of the nature and
26 value of each such Asset as of the close of business on the day on
27 which this Order is served, and, if the account or other Asset has been
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1 closed or removed, the date closed or removed, the total funds
2 removed in order to close the account, and the name of the person or
3 entity to whom such account or other Asset was remitted; and

- 4 3. The identification of any safe deposit box, commercial mail box, or
5 storage facility that is either titled in the name, individually or jointly,
6 of any Defendant, or is otherwise subject to access by any Defendant;
7 and

8 D. Upon the request of Plaintiff's counsel or the Receiver, promptly
9 provide Plaintiff's counsel and the Receiver with copies of all records or other
10 Documents pertaining to each account covered by this Section or Asset, including
11 originals or copies of account applications, account statements, signature cards,
12 checks, drafts, deposit tickets, transfers to and from the accounts, including wire
13 transfers and wire transfer instructions, all other debit and credit instruments or
14 slips, currency transaction reports, 1099 forms, and all logs and records pertaining
15 to safe deposit boxes, commercial mail boxes, and storage facilities.

16 Provided, however, that this Section does not prohibit any transfers to the
17 Receiver or repatriation of foreign Assets specifically required by this order.

18 **V. FINANCIAL DISCLOSURES**

19 **IT IS FURTHER ORDERED** that any Defendant that has not yet
20 provided Financial Statements to the FTC in accordance with Section V of the
21 TRO, within (1) business day of entry of this Order, shall prepare and deliver to
22 Plaintiff's counsel and the Receiver:

23 A. completed financial statements on the forms attached to this Order as
24 **Attachment A** (Financial Statement of Individual Defendant) for each Individual
25 Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for
26 each Corporate Defendant; and

1 B. completed **Attachment C** (IRS Form 4506, Request for Copy of a
2 Tax Return) for each Individual and Corporate Defendant.

3 **VI. FOREIGN ASSET REPATRIATION**

4 **IT IS FURTHER ORDERED** that within one (1) day following entry of
5 this Order on the docket, to the extent not already done so in accordance with the
6 TRO, each Defendant shall:

7 A. Provide Plaintiff's counsel and the Receiver with a full accounting,
8 verified under oath and accurate as of the date of this Order, of all Assets,
9 Documents, and accounts outside of the United States which are: (1) titled in the
10 name, individually or jointly, of any Defendant; (2) held by any person or entity
11 for the benefit of any Defendant or for the benefit of, any corporation, partnership,
12 asset protection trust, or other entity that is directly or indirectly owned, managed
13 or controlled by any Defendant; or (3) under the direct or indirect control, whether
14 jointly or singly, of any Defendant;

15 B. Take all steps necessary to provide Plaintiff's counsel and Receiver
16 access to all Documents and records that may be held by third parties located
17 outside of the territorial United States of America, including signing the Consent
18 to Release of Financial Records appended to this Order as **Attachment D**.

19 C. Transfer to the territory of the United States and all Documents and
20 Assets located in foreign countries which are: (1) titled in the name, individually
21 or jointly, of any Defendant; (2) held by any person or entity for the benefit of any
22 Defendant or for the benefit of, any corporation, partnership, asset protection trust,
23 or other entity that is directly or indirectly owned, managed or controlled by any
24 Defendant; or (3) under the direct or indirect control, whether jointly or singly, of
25 any Defendant; and

26 The same business day as any repatriation, (1) notify the Receiver and
27 counsel for Plaintiff of the name and location of the financial institution or other
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1 entity that is the recipient of such Documents or Assets; and (2) serve this Order
2 on any such financial institution or other entity.

3 **VII. NON-INTERFERENCE WITH REPATRIATION**

4 **IT IS FURTHER ORDERED** that Defendants, their officers, agents,
5 employees, and attorneys, and all other persons in active concert or participation
6 with any of them, who receive actual notice of this Order, whether acting directly
7 or indirectly, are hereby restrained and enjoined from taking any action, directly
8 or indirectly, which may result in the encumbrance or dissipation of foreign
9 Assets, or in the hindrance of the repatriation required by this Order, including,
10 but not limited to:

11 A. Sending any communication or engaging in any other act, directly or
12 indirectly, that results in a determination by a foreign trustee or other entity that a
13 “duress” event has occurred under the terms of a foreign trust agreement until
14 such time that all Defendants’ Assets have been fully repatriated pursuant to this
15 Order; or

16 B. Notifying any trustee, protector or other agent of any foreign trust or
17 other related entities of either the existence of this Order, or of the fact that
18 repatriation is required pursuant to a court order, until such time that all
19 Defendants’ Assets have been fully repatriated pursuant to this Order.

20 **VIII. CONSUMER CREDIT REPORTS**

21 **IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports
22 concerning any Defendants pursuant to Section 604(a)(1) of the Fair Credit
23 Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit
24 reporting agency from which such reports are requested shall provide them to
25 Plaintiff.

1 **IX. PRESERVATION OF RECORDS**

2 **IT IS FURTHER ORDERED** that Defendants, their officers, agents,
3 employees, and attorneys, and all other persons in active concert or participation
4 with any of them, who receive actual notice of this Order, whether acting directly
5 or indirectly, are hereby restrained and enjoined from:

6 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,
7 altering, transferring, or otherwise disposing of, in any manner, directly or
8 indirectly, Documents that relate to: (1) the business, business practices, Assets,
9 or business or personal finances of any Defendant; (2) the business practices or
10 finances of entities directly or indirectly under the control of any Defendant; or (3)
11 the business practices or finances of entities directly or indirectly under common
12 control with any other Defendant; and

13 Failing to create and maintain Documents that, in reasonable detail,
14 accurately, fairly, and completely reflect Defendants' incomes, disbursements,
15 transactions, and use of Defendants' Assets.

16 **X. REPORT OF NEW BUSINESS ACTIVITY**

17 **IT IS FURTHER ORDERED** that Defendants, their officers, agents,
18 employees, and attorneys, and all other persons in active concert or participation
19 with any of them, who receive actual notice of this Order, whether acting directly
20 or indirectly, are hereby restrained and enjoined from creating, operating, or
21 exercising any control over any business entity, whether newly formed or
22 previously inactive, including any partnership, limited partnership, joint venture,
23 sole proprietorship, or corporation, without first providing Plaintiff's counsel and
24 the Receiver with a written statement disclosing: (1) the name of the business
25 entity; (2) the address and telephone number of the business entity; (3) the names
26 of the business entity's officers, directors, principals, managers, and employees;
27 and (4) a detailed description of the business entity's intended activities.
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1 **XI. RECEIVER**

2 **IT IS FURTHER ORDERED** that Krista L. Freitag is appointed as
3 receiver of the Receivership Entities with full powers of an equity receiver. The
4 Receiver shall be solely the agent of this Court in acting as Receiver under this
5 Order.

6 **XII. DUTIES AND AUTHORITY OF RECEIVER**

7 **IT IS FURTHER ORDERED** that the Receiver is directed and authorized
8 to accomplish the following:

9 A. Assume full control of Receivership Entities by removing, as the
10 Receiver deems necessary or advisable, any director, officer, independent
11 contractor, employee, attorney, or agent of any Receivership Entity from control
12 of, management of, or participation in, the affairs of the Receivership Entity;

13 B. Take exclusive custody, control, and possession of all Assets and
14 Documents of, or in the possession, custody, or under the control of, any
15 Receivership Entity, wherever situated;

16 C. Conserve, hold, manage, and prevent the loss of all Assets of the
17 Receivership Entities, and perform all acts necessary or advisable to preserve the
18 value of those Assets. The Receiver shall assume control over the income and
19 profits therefrom and all sums of money now or hereafter due or owing to the
20 Receivership Entities. The Receiver shall have full power to sue for, collect, and
21 receive, all Assets of the Receivership Entities and of other persons or entities
22 whose interests are now under the direction, possession, custody, or control of, the
23 Receivership Entities. Provided, however, that the Receiver shall not attempt to
24 collect any amount from a consumer if the Receiver believes the consumer's debt
25 to the Receivership Entities has resulted from the deceptive acts or practices or
26 other violations of law alleged in the Complaint in this matter, without prior Court
27 approval;

1 D. Obtain, conserve, hold, manage, and prevent the loss of all
2 Documents of the Receivership Entities, and perform all acts necessary or
3 advisable to preserve such Documents. The Receiver shall: divert mail; preserve
4 all Documents of the Receivership Entities that are accessible via electronic
5 means (such as online access to financial accounts and access to electronic
6 documents held onsite or by Electronic Data Hosts, by changing usernames,
7 passwords or other log-in credentials; take possession of all electronic Documents
8 of the Receivership Entities stored onsite or remotely; take whatever steps
9 necessary to preserve all such Documents; and obtain the assistance of the FTC's
10 Digital Forensic Unit for the purpose of obtaining electronic documents stored
11 onsite or remotely.

12 E. Choose, engage, and employ attorneys, accountants, appraisers, and
13 other independent contractors and technical specialists, as the Receiver deems
14 advisable or necessary in the performance of duties and responsibilities under the
15 authority granted by this Order;

16 F. Make payments and disbursements from the receivership estate that
17 are necessary or advisable for carrying out the directions of, or exercising the
18 authority granted by, this Order, and to incur, or authorize the making of, such
19 agreements as may be necessary and advisable in discharging his or her duties as
20 Receiver. The Receiver shall apply to the Court for prior approval of any
21 payment of any debt or obligation incurred by the Receivership Entities prior to
22 the date of entry of this Order, except payments that the Receiver deems necessary
23 or advisable to secure Assets of the Receivership Entities, such as rental
24 payments;

25 G. Take all steps necessary to secure and take exclusive custody of each
26 location from which the Receivership Entities operate their businesses. Such steps
27 may include, but are not limited to, any of the following, as the Receiver deems
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1 necessary or advisable: (1) securing the location by changing the locks and alarm
2 codes and disconnecting any internet access or other means of access to the
3 computers, servers, internal networks, or other records maintained at that location;
4 and (2) requiring any persons present at the location to leave the premises, to
5 provide the Receiver with proof of identification, and/or to demonstrate to the
6 satisfaction of the Receiver that such persons are not removing from the premises
7 Documents or Assets of the Receivership Entities. Law enforcement personnel,
8 including, but not limited to, police or sheriffs, may assist the Receiver in
9 implementing these provisions in order to keep the peace and maintain security;

10 H. Take all steps necessary to prevent the modification, destruction, or
11 erasure of any web page or website registered to and operated, in whole or in part,
12 by any Defendants, and to provide access to all such web page or websites to
13 Plaintiff's representatives, agents, and assistants, as well as Defendants and their
14 representatives;

15 I. Enter into and cancel contracts and purchase insurance as advisable
16 or necessary;

17 J. Prevent the inequitable distribution of Assets and determine, adjust,
18 and protect the interests of consumers who have transacted business with the
19 Receivership Entities;

20 K. Make an accounting, as soon as practicable, of the Assets and
21 financial condition of the receivership and file the accounting with the Court and
22 deliver copies thereof to all parties;

23 L. Institute, compromise, adjust, appear in, intervene in, defend, dispose
24 of, or otherwise become party to any legal action in state, federal or foreign courts
25 or arbitration proceedings as the Receiver deems necessary and advisable to
26 preserve or recover the Assets of the Receivership Entities, or to carry out the
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1 Receiver's mandate under this Order, including but not limited to, actions
2 challenging fraudulent or voidable transfers;

3 M. Issue subpoenas to obtain Documents and records pertaining to the
4 Receivership, and conduct discovery in this action on behalf of the receivership
5 estate, in addition to obtaining other discovery as set forth in this Order;

6 N. Open one or more bank accounts at designated depositories for funds
7 of the Receivership Entities. The Receiver shall deposit all funds of the
8 Receivership Entities in such designated accounts and shall make all payments
9 and disbursements from the receivership estate from such accounts. The Receiver
10 shall serve copies of monthly account statements on all parties;

11 O. Maintain accurate records of all receipts and expenditures incurred as
12 Receiver;

13 P. Allow the Plaintiffs' representatives, agents, and assistants, as well as
14 Defendants' representatives and Defendants themselves, reasonable access to the
15 premises of the Receivership Entities, or any other premises where the
16 Receivership Entities conduct business. The purpose of this access shall be to
17 inspect and copy any and all books, records, Documents, accounts, and other
18 property owned by, or in the possession of, the Receivership Entities or their
19 agents. The Receiver shall have the discretion to determine the time, manner, and
20 reasonable conditions of such access;

21 Q. Allow the Plaintiffs' representatives, agents, and assistants, as well as
22 Defendants and their representatives reasonable access to all Documents in the
23 possession, custody, or control of the Receivership Entities;

24 R. Cooperate with reasonable requests for information or assistance
25 from any state or federal civil or criminal law enforcement agency;

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1 S. Suspend business operations of the Receivership Entities if in the
2 judgment of the Receiver such operations cannot be continued legally and
3 profitably;

4 T. If the Receiver identifies a nonparty entity as a Receivership Entity,
5 promptly notify the entity as well as the parties, and inform the entity that it can
6 challenge the Receiver's determination by filing a motion with the Court.
7 Provided, however, that the Receiver may delay providing such notice until the
8 Receiver has established control of the nonparty entity and its assets and records,
9 if the Receiver determines that notice to the entity or the parties before the
10 Receiver establishes control over the entity may result in the destruction of
11 records, dissipation of assets, or any other obstruction of the Receiver's control of
12 the entity; and

13 If in the Receiver's judgment the business operations cannot be continued
14 legally and profitably, take all steps necessary to ensure that any of the
15 Receivership Entities' web pages or websites relating to the activities alleged in
16 the Complaint cannot be accessed by the public, or are modified for consumer
17 education and/or informational purposes, and take all steps necessary to ensure
18 that any telephone numbers associated with the Receivership Entities cannot be
19 accessed by the public, or are answered solely to provide consumer education or
20 information regarding the status of operations.

21 **XIII. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

22 **IT IS FURTHER ORDERED** that Defendants and any other person, with
23 possession, custody or control of property of, or records relating to, the
24 Receivership Entities shall, upon notice of this Order by personal service or
25 otherwise, fully cooperate with and assist the Receiver in taking and maintaining
26 possession, custody, or control of the Assets and Documents of the Receivership
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1 Entities and immediately transfer or deliver to the Receiver possession, custody,
2 and control of, the following:

- 3 A. All Assets held by or for the benefit of the Receivership Entities;
- 4 B. All Documents of or pertaining to the Receivership Entities;
- 5 C. All computers, electronic devices, mobile devices and machines used
6 to conduct the business of the Receivership Entities;
- 7 D. All Assets and Documents belonging to other persons or entities
8 whose interests are under the direction, possession, custody, or control of the
9 Receivership Entities; and
- 10 E. All keys, codes, user names and passwords necessary to gain or to
11 secure access to any Assets or Documents of or pertaining to the Receivership
12 Entities, including access to their business premises, means of communication,
13 accounts, computer systems (onsite and remote), Electronic Data Hosts, or other
14 property.

15 In the event that any person or entity fails to deliver or transfer any Asset or
16 Document, or otherwise fails to comply with any provision of this Section, the
17 Receiver may file an Affidavit of Non-Compliance regarding the failure and a
18 motion seeking compliance or a contempt citation.

19 **XIV. PROVISION OF INFORMATION TO RECEIVER**

20 **IT IS FURTHER ORDERED** that Defendants shall immediately provide
21 to the Receiver:

- 22 A. A list of all Assets and accounts of the Receivership Entities that are
23 held in any name other than the name of a Receivership Entity, or by any person
24 or entity other than a Receivership Entity;
- 25 B. A list of all agents, employees, officers, attorneys, servants and those
26 persons in active concert and participation with the Receivership Entities, or who
27 have been associated or done business with the Receivership Entities; and
28

1 C. A description of any documents covered by attorney-client privilege
2 or attorney work product, including files where such documents are likely to be
3 located, authors or recipients of such documents, and search terms likely to
4 identify such electronic documents.

5 **XV. COOPERATION WITH THE RECEIVER**

6 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;
7 Defendants' or Receivership Entities' officers, agents, employees, and attorneys,
8 all other persons in active concert or participation with any of them, and any other
9 person with possession, custody, or control of property of or records relating to
10 the Receivership entities who receive actual notice of this Order shall fully
11 cooperate with and assist the Receiver. This cooperation and assistance shall
12 include, but is not limited to, providing information to the Receiver that the
13 Receiver deems necessary to exercise the authority and discharge the
14 responsibilities of the Receiver under this Order; providing any keys, codes, user
15 names and passwords required to access any computers, electronic devices,
16 mobile devices, and machines (onsite or remotely) and any cloud account
17 (including specific method to access account) or electronic file in any medium;
18 advising all persons who owe money to any Receivership Entity that all debts
19 should be paid directly to the Receiver; and transferring funds at the Receiver's
20 direction and producing records related to the Assets and sales of the Receivership
21 Entities.

22 **XVI. NON-INTERFERENCE WITH THE RECEIVER**

23 **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;
24 Defendants' or Receivership Entities' officers, agents, employees, attorneys, and
25 all other persons in active concert or participation with any of them, who receive
26 actual notice of this Order, and any other person served with a copy of this Order,
27 are hereby restrained and enjoined from directly or indirectly:
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1 such actions may be commenced if necessary to toll any applicable statute of
2 limitations; or

3 C. Filing or enforcing any lien on any asset of the Receivership Entities,
4 taking or attempting to take possession, custody, or control of any Asset of the
5 Receivership Entities; or attempting to foreclose, forfeit, alter, or terminate any
6 interest in any Asset of the Receivership Entities, whether such acts are part of a
7 judicial proceeding, are acts of self-help, or otherwise.

8 Provided, however, that this Order does not stay: (1) the commencement or
9 continuation of a criminal action or proceeding; (2) the commencement or
10 continuation of an action or proceeding by a governmental unit to enforce such
11 governmental unit's police or regulatory power; or (3) the enforcement of a
12 judgment, other than a money judgment, obtained in an action or proceeding by a
13 governmental unit to enforce such governmental unit's police or regulatory power.

14 **XVIII. COMPENSATION OF THE RECEIVER**

15 **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by
16 the Receiver as herein authorized, including counsel to the Receiver and
17 accountants, are entitled to reasonable compensation for the performance of duties
18 pursuant to this Order and for the cost of actual out-of-pocket expenses incurred
19 by them, from the Assets now held by, in the possession or control of, or which
20 may be received by, the Receivership Entities. The Receiver shall file with the
21 Court and serve on the parties periodic requests for the payment of such
22 reasonable compensation, with the first such request filed no more than sixty (60)
23 days after the date of entry of this Order. The Receiver shall not increase the
24 hourly rates used as the bases for such fee applications without prior approval of
25 the Court.

1 **XIX. DISTRIBUTION OF ORDER BY DEFENDANTS**

2 **IT IS FURTHER ORDERED** that Defendants shall immediately provide
3 a copy of this Order to each affiliate, telemarketer, marketer, sales entity,
4 successor, assign, member, officer, director, employee, agent, independent
5 contractor, client, attorney, spouse, subsidiary, division, and representative of any
6 Defendant, and shall, within ten (10) days from the date of entry of this Order, and
7 provide Plaintiff and the Receiver with a sworn statement that this provision of the
8 Order has been satisfied, which statement shall include the names, physical
9 addresses, phone number, and email addresses of each such person or entity who
10 received a copy of the Order. Furthermore, Defendants shall not take any action
11 that would encourage officers, agents, members, directors, employees,
12 salespersons, independent contractors, attorneys, subsidiaries, affiliates,
13 successors, assigns or other persons or entities in active concert or participation
14 with them to disregard this Order or believe that they are not bound by its
15 provisions.

16 **XX. SERVICE OF THIS ORDER**

17 **IT IS FURTHER ORDERED** that copies of this Order and all other
18 pleadings, Documents, and exhibits filed contemporaneously with this Order, may
19 be served by any means, including facsimile transmission, electronic mail or other
20 electronic messaging, personal or overnight delivery, U.S. Mail or FedEx, by
21 agents and employees of Plaintiff, by any law enforcement agency, or by private
22 process server, upon any Defendant or any person (including any financial
23 institution) that may have possession, custody or control of any Asset or
24 Document of any Defendant, or that may be subject to any provision of this Order
25 pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes
26 of this Section, service upon any branch, subsidiary, affiliate or office of any
27 entity shall effect service upon the entire entity.
28

XXI. CORRESPONDENCE AND SERVICE ON PLAINTIFF

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on Plaintiff shall be addressed to:

Elsie Kappler
Simon Han
Federal Trade Commission
600 Pennsylvania Ave., NW, Mail Drop CC-9528
Washington, DC 20580
Telephone: (202) 326-2466, -2495
ekappler@ftc.gov, shan@ftc.gov

XXII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED, this ___ day of ____, 2018, at _____ AM/PM, Pacific Time.

Dated: _____

JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE