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11 Attorneys for Receiver
12 Krista L. Freitag

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 FEDERAL TRADE COMMISSION,
17 Plaintiff,

18 v.

19 AMERICAN HOME SERVICING
20 CENTER, LLC,
21 CAPITAL HOME ADVOCACY
22 CENTER,
23 NATIONAL ADVOCACY CENTER,
24 LLC,
25 JAIME ABURTO, a/k/a James Aburto
and Jamie Aburto, individually, as an
26 officer of American Home Servicing
Center, LLC and National Advocacy
27 Center, LLC. and d/b/a A.H.S.C.,
American Home Servicing Center, Local
28 Page, NAC, National Servicing Center,
NSC Processing, and Secured
Processing,

Case No. 8:18-cv-00597-JLS-KES

RECEIVER'S SECOND REPORT

Ctrm: 10A
Judge: Hon. Josephine L. Staton

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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 Advocacy Group, and
SERGIO LORENZO RODRIGUEZ,
a/k/a Sergio Lawrence, individually, as a
manager of American Home Servicing
Center, LLC, a member of Capital Home
Advocacy Center, and d/b/a National
Advocacy Group,

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Defendants.

1 On April 13, 2018, this Court entered the Ex Parte Temporary Restraining
2 Order with Asset Freeze, Appointment of Temporary Receiver, Limited Expedited
3 Discovery, and Order to Show Cause Why Preliminary Injunction Should Not Issue
4 ("TRO"), appointing Krista L. Freitag ("Receiver") as temporary receiver for
5 American Home Servicing Center, LLC ("American Home"), Capital Home
6 Advocacy Center ("Capital Home"), National Advocacy Center, LLC ("National
7 Advocacy"), and their subsidiaries and affiliates (collectively, "Receivership
8 Entities" or individually, a "Receivership Entity") with full powers of an equity
9 receiver.

10 On April 27, 2018, this Court entered the Preliminary Injunction with Asset
11 Freeze, Appointment of Receiver, Limited Expedited Discovery, and Other
12 Equitable Relief, as to American Home, Capital Home, National Advocacy, and
13 Marcus Fierro, ("First PI Order"). The First PI Order makes the Receiver's
14 appointment for the Receivership Entities permanent. On June 12, 2018, this Court
15 entered the Preliminary Injunction with Asset Freeze, Limited Expedited Discovery,
16 and Other Equitable Relief, as to Defendants Eve Christine Rodriguez and Sergio
17 Lorenzo Rodriguez ("Second PI Order").

18 On August 8, 2018, this Court entered an order, which, amongst other things,
19 requested a supplemental brief addressing the efficiency and effectiveness of
20 continuing the receivership. The Receiver's supplemental brief is filed herewith.
21 The following report summarizes the Receiver's work performed for the period from
22 April 16, 2018, through August 9, 2018.

23 I. EXECUTIVE SUMMARY

24 As previously discussed, the Receiver successfully obtained possession of and
25 secured the following two physical locations associated with the operations of
26 Capital Home and National Advocacy:¹

27
28 ¹ At this point, there are no known operational locations of American Home.

- 1 1. 1809 East Dyer Road, Suite 301, Santa Ana, California 92705; and
- 2 2. 15991 Red Hill Avenue, Suite 204, Tustin, California 92780 (including the
- 3 333 City Boulevard West, 17th Floor, Orange, California 92868 virtual
- 4 office location where it appears mail was directed and received).

5 Numerous documents and records (including electronic forms thereof) were
6 secured therein and/or were otherwise secured. Said records were securely
7 transferred to the possession of the Federal Trade Commission and access thereto
8 granted to defendants Eve Christine Rodriguez and Sergio Rodriguez. Access to
9 electronic customer relations management records of Capital Home were also
10 provided.

11 Although the Receiver secured a significant amount of records and
12 information for Capital Home, much less information has been obtained for
13 American Home and National Advocacy, so the Receiver has not yet been able to
14 identify the entire scope of the receivership enterprise, *i.e.*, the total number of
15 consumers affected, the specific amounts consumers paid, and specific amounts
16 expended by the Receivership Entities.

17 That said, it appears from records obtained through the Capital Home
18 customer relations management ("CRM") software that the Capital Home Senior
19 Processors' (employed as of April 16, 2018) files included approximately 125 active
20 consumer accounts. Although its CRM software company and other vendors
21 (discovered Friday, April 20, 2018) were served with the TRO, the Receiver has
22 been unable to recover any consumer account information for National Advocacy
23 because such information is maintained at a third party vendor under Jaime Aburto's
24 name.

25 The bank accounts listed in the TRO and additional accounts identified
26 through an investigation of documents and information found at the locations where
27 the Receivership Entities conducted business were frozen. Based on the Receiver's
28 investigation of documents and computer records, the Receiver was able to identify

1 and take control of approximately \$5,230 in National Advocacy cash and \$3,713 in
2 Capital Home cash.

3 To date, other than the funds recovered as described below, it does not appear
4 likely that additional funds or assets will be recovered, other than very little
5 additional personal property sales. No real property has been identified and, aside
6 from the account balances referenced above, all other accounts identified in the
7 TRO were either closed or had a zero balance.

8 Based on the lack of any financial resources or legal source of operating
9 income, the Receiver determined that it was appropriate to immediately and
10 completely shut-down operations with no resources available for imminently due
11 operational expenses like rent, utilities, and payroll.

12 Furthermore, to minimize accruing expenses in light of minimal receivership
13 estate resources, the Receiver and her staff worked quickly and diligently to box up
14 and secure records, to monetize the minimal value in personal property, and to turn
15 over the spaces to landlords. A few pieces of personal property remain to be sold.

16 **II. RECEIVER'S ACTIONS TO IMPLEMENT TRO/PI ORDER**

17 **A. Premises, Records, and Operations**

18 Upon her appointment, the Receiver assumed control over the Capital Home
19 leased premises located at 1809 East Dyer Road, Suite 301, Santa Ana, California
20 92705 ("Capital Home Office"). After significant efforts to identify an alternative
21 physical location (numerous former, virtual, and other addresses were discovered
22 and contacts associated with same were served with the TRO), on Friday, April 20,
23 2018, the Receiver assumed control over the National Advocacy leased premises
24 located at 15991 Red Hill Avenue, Suite 204, Tustin, California 92780 ("National
25 Advocacy Office").

26 With regard to each of the foregoing, the Receiver took physical control,
27 changed the locks, served/notified landlords, served/notified vendors and otherwise
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1 worked to ensure no entry into the premises. The Receiver's staff also redirected
2 mail for eight known current or prior operations addresses.

3 Upon entry to the Capital Home Office, the Receiver took control over
4 computers and electronic devices located at the office premises, as well as any off-
5 site electronic records. Pursuant to the TRO, the Receiver granted access to certain
6 computer drives to the Commission and also retained the services of SETEC
7 Investigations to image the computers located at the office premises which images
8 were not otherwise taken by the Commission. This work involved imaging the hard
9 drives from each of the computers in order to preserve all emails, documents, and
10 accounting information maintained on the devices.

11 Regarding National Advocacy, after securing the office premises on the
12 afternoon of Friday, April 20, 2018, the Receiver met SETEC to retrieve all hard
13 drives and the server from the premises for imaging.

14 From what the Receiver has reviewed thus far, it is clear that Defendants
15 Capital Home, Christine Rodriguez, and Sergio Rodriguez required consumers to
16 make payments to them before consumers' loan modification applications were
17 submitted to their lenders and well before loan modifications were granted (if at all)
18 by the lenders. Accordingly, and with no resources to fund any level of operations
19 (including payment of rent, utilities, past-due payroll/current payroll, etc.), the
20 Receiver determined the business could not be operated at all, let alone operated
21 lawfully and profitably. Therefore, the Receiver did not retain any of the Capital
22 Home employees and has ceased operations. As noted above, the employees of
23 National Advocacy appear to have intentionally left the premises and abandoned the
24 business shortly before the Receiver arrived at the office on April 20, 2018.

25 **B. Funds Recovered, Receivership Estate Accounting**

26 In addition to the Commission's transmittal of notice of the asset freeze to the
27 banks, the Receiver has also promptly notified each bank identified in the TRO as
28 having an account associated with the Receivership Entities. In such notices, the

1 Receiver demanded turnover of the account, immediate cancellation of any debit or
 2 credit cards, identification/freeze of any safe deposit box, account balance
 3 information, and account records. The total cash balances in accounts at takeover
 4 are reflected in the following table.

BANK BALANCES AT TAKEOVER:	
Capital Home	\$ 3,712
National Advocacy	\$ 5,230
TOTAL²	\$ 8,942

10 The following summary reflects the bank account balances in the receivership
 11 estate bank accounts as of August 9, 2018:

RECEIVERSHIP ESTATE BANK BALANCES:	
Receivership Estate Operating Account	\$ 22,130

15 The following is a summary of the cash activity in the receivership estate bank
 16 accounts for the period from April 16, 2018, through August 9, 2018:

RECEIVERSHIP ESTATE CASH ACTIVITY:	
Pre-Receiver Operating Account Funds	\$ 8,942
Recovery – Petty Cash/Vending Cash	\$ 569
Recovery – Lease Security Deposit	\$ 6,295
Recovery – Utility Security Deposit	\$ 3,248
Recovery – Sergio Rodriguez Partial Return of Funds	\$ 1,576
Recovery – Personal Property Proceeds	\$ 1,500
Cash Balance as of August 9, 2018	<u>\$ 22,130</u>

27 _____
 28 ² The entire balances in the Capital Home and National Advocacy Accounts were transferred to the Receivership Estate's Operating Account.

1 Very small additional recoveries from the sale of personal property are
2 expected to be received in the near term.

3 **C. Personal Property**

4 The Receiver took a photographic and video inventory of both the Capital
5 Home Office and the National Advocacy Office. For the most part, the personal
6 property consisted of CPUs, computer monitors, cubicles, and other miscellaneous
7 office furniture, fixtures, and equipment – all items with little value.

8 **D. Territorial Jurisdiction Over Receivership Assets**

9 By filing the Complaint and the TRO with other federal district courts in the
10 United States, the territorial jurisdiction of this Court over receivership assets is
11 extended to such districts. 28 U.S.C. § 754, *see also Haile v. Henderson Nat'l Bank*,
12 657 Fed. 2d 816, 822 (6th Cir. 1981). Based on information obtained to date, the
13 Receivership Entities do not appear to have any assets or security interests in
14 property located in other judicial districts. However, if additional information
15 becomes available, the Receiver would file and record the Complaint and the
16 appointment order in applicable districts and counties in conformity with
17 section 754 and the federal law.

18 **E. Borrower/Client Communications**

19 The Receiver has established a dedicated web page on the Receiver's website
20 which is used to provide case information, regular updates, and answers to
21 frequently asked questions to employees, consumers, and lenders. The Internet
22 address for the webpage is as follows: [http://www.ethreadvisors.com/ftc-case-](http://www.ethreadvisors.com/ftc-case-docs/ftc-capital-home/)
23 [docs/ftc-capital-home/](http://www.ethreadvisors.com/ftc-case-docs/ftc-capital-home/). While the Capital Home known consumers (identified in the
24 company's QuickBooks file) and lenders (all known) were notified, the Receiver
25 attempted to obtain the identity of National Advocacy consumers based on the
26 records in its CRM software, to no avail. No accounting software was identified and
27 notably, a workstation (likely a laptop) was removed from the National Advocacy
28 Office where it appeared the accountant's workstation was located. National

1 Advocacy's CRM software company was notified of the TRO on Monday April 23,
2 2018, but has not cooperated.

3 In addition, the Receiver is maintaining a dedicated email address and
4 telephone line for all inquiries and is monitoring mail correspondence.

5 **III. RECOMMENDATIONS**

6 Considering the very limited value of assets secured to date, the prospects for
7 providing a recovery to consumers at this point are not good. Accordingly, in her
8 supplemental brief, the Receiver and her counsel recommend substantially scaling
9 back the receivership such that the Receiver will essentially serve as a custodian of
10 the Receivership Entities' electronic records moving forward and until such time as
11 a neutral custodian of records is no longer necessary for the purposes of discovery in
12 this litigation. The Receiver requests the Court approve this recommendation, as
13 further described in her supplemental brief, approve the First Interim Fee
14 Applications of the Receiver and her counsel, and approve this Second Report.

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Dated: August 22, 2018

By: 
KRISTA L. FREITAG
Receiver

Dated: August 22, 2018

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Edward Fates
EDWARD G. FATES
Attorneys for Receiver
KRISTA L. FREITAG