



1 THOMAS W. McNAMARA
 2 501 West Broadway, Suite 2020
 3 San Diego, California 92101
 4 Tel.: (619) 269-0400
 5 Fax: (619) 269-0401
 6 Email: tmcnamara@mcnamarallp.com

7 Court-Appointed Receiver

8 Daniel M. Benjamin (SBN 209240)
 9 Andrew W. Robertson (SBN 62541)
 10 McNAMARA BENJAMIN LLP
 11 501 West Broadway, Suite 2020
 12 San Diego, California 92101
 13 Tel.: (619) 269-0400
 14 Fax: (619) 269-0401
 15 Email: arobertson@mcnamarallp.com
 16 dbenjamin@mcnamarallp.com

17 Attorneys for Court-Appointed Receiver

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 19 **COUNTY OF LOS ANGELES**
 20 **CENTRAL CIVIL WEST COURTHOUSE**

21 THE PEOPLE OF THE STATE OF
 22 CALIFORNIA,

23 Plaintiff,

24 v.

25 THE LAW OFFICES OF KRAMER AND
 26 KASLOW, et al.,

27 Defendants.

Case No. LC094571
*Related Cases: LS021816 [Kramer];
 LS021817 [Stein]; LS021818 [Van Son]*

**RECEIVER'S FINAL ACCOUNT
 AND REPORT**

Action Filed: August 15, 2011
 Judge: Jane L. Johnson
 Dept.: 308

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	Page
I. Attorney General and State Bar Actions.....	1
II. Receivership Events and Accounting	2
III. Restitution Program	6
IV. Fees of the Receiver and His Professionals	6
V. Discharge of the Receiver	6

1 The work of this receivership is now complete. The underlying civil case brought by the
2 California Attorney General (“AG”) has been resolved as to all named Defendants (except the
3 incarcerated Mitchell J. Stein) and we have assembled the assets of the Receivership Defendants.
4 Accordingly, the Receiver submits this Final Account and Report (“Final Report”) and has this
5 date filed an Application to Discharge the Receiver and Approve a Final Fee Application.

6 **I. Attorney General and State Bar Actions**

7 This action was commenced by the AG’s Complaint, filed August 15, 2011, against
8 multiple individuals and business entities,¹ alleging that Defendants, categorized as Attorney
9 Defendants and Non-Attorney Defendants, violated California unfair competition laws with a
10 scheme to defraud consumer homeowners by selling them seats as plaintiffs in “mass joinder”
11 lawsuits against mortgage lenders. Consumers were enticed by false promises that these suits
12 would lead to mortgage relief, including expungement of the mortgage itself.

13 The Court entered a Temporary Restraining Order (“TRO”) on August 15, 2011 and a
14 Preliminary Injunction on September 6, 2011, enjoining Defendants from the identified unlawful
15 acts.

16 By Order Appointing Receiver entered August 15, 2011, and confirmed by the Order
17 Confirming Appointment of Receiver on September 8, 2011 (“Receiver Orders”), the Court
18 appointed Thomas W. McNamara as Receiver of the Non-Attorney Defendants and of the assets
19 of Attorney Defendants (except as to any assets taken into the State Bar’s possession in their
20 parallel administrative actions).

21 Final Judgments have now been entered as to all Defendants, except Mitchel J. Stein, as
22 follows – Bill Merrill Stephenson (July 27, 2012); Clarence Butt, Thomas Phanco, Lewis
23 Marketing (August 12, 2012); James Eric Pate, Ryan William Marier, and Pate, Marier and
24 Associates, Inc. (May 7, 2013); Paul Petersen and Mesa Law Group (May 20, 2013); Christopher
25

26 ¹ The Law Offices of Kramer and Kaslow; Philip Allen Kramer; Mitchell J. Stein &
27 Associates, Inc.; Mitchell J. Stein; Christopher Van Son; Mesa Law Group Corp.; Paul Warren
28 Petersen; Attorneys Processing Center, LLC; Data Management, LLC; Gary Digirolamo; Bill
Merrill Stephenson; Mitigation Professionals, LLC; Glen Reneau; Pate, Marier and Associates,
Inc.; James Eric Pate; Ryan William Marier; Home Retention Division; Michael Anthony Tapia;
Lewis Marketing Corp.; Clarence John Butt; and Thomas David Phanco.

1 Van Son, individually and dba the Law Offices of Christopher J. Van Son, Van Son Law Group,
2 and Consolidated Litigation Group (May 24, 2013); Glen Reneau and Mitigation Professionals
3 (May 24, 2013); Michael Tapia, individually and dba Home Litigation Help, Document
4 Compliance Division and Home Retention Division (May 24, 2013); Gary DiGirolamo,
5 Attorneys Processing Center, LLC, and Data Management, LLC (June 5, 2013); and Philip Allen
6 Kramer and the Law Offices of Kramer and Kaslow (September 30, 2013).

7 The AG's case against Mitchell J. Stein remains pending, technically, but the Court
8 granted the AG's Motion for Summary Adjudication on February 5, 2016 and has set an Order to
9 Show Cause Regarding Dismissal for May 5, 2016. The pendency of that Order to Show Cause
10 does not impact the receivership and is not an impediment to closing out the receivership.

11 The State Bar also brought parallel actions to assume jurisdiction of the law practices of
12 the Attorney Defendants identified in the AG's action, plus Anthony Kassas whose participation
13 in the mass joinder cases was discovered after the AG's case was filed. Permanent Orders
14 assuming jurisdiction have been entered by the Los Angeles County Superior Court in Case No.
15 LC094571 as to the Law Practices of Mitchell J. Stein (October 26, 2011); Philip A. Kramer, dba
16 Law Office of Kramer and Kaslow (January 19, 2012); and in Case No. LC021818 as to
17 Christopher J. Van Son (October 26, 2011). Permanent Orders were also entered by the Orange
18 County Superior Court in Case No. 30-2011-00499800 as to the Law Practice of Paul W.
19 Petersen (September 9, 2011) and in Case No. 30-2011-00505386 as to the Law Practice of
20 Anthony Kassas (September 26, 2011).

21 **II. Receivership Events and Accounting**

22 As the Court is aware, this receivership has been a complex and expensive undertaking.
23 Based on the available evidence, the AG's Complaint and Ex Parte Application for TRO
24 depicted a wide-ranging enterprise with multiple Attorney Defendants and Non-Attorney
25 Defendants operating from 11 identified sites in Los Angeles, Orange, and Riverside counties.
26 Once the Receiver secured access to the known sites which were active, we also identified and
27 secured an additional site which proved to be the largest, with nearly 50 onsite telemarketers.

28 ///

1 At the outset, it was a challenge to sort through the multiple Defendants' operations at
2 multiple sites, categorize the respective business operations of, and inter-relationships between,
3 Attorney Defendants and Non-Attorney Defendants and their various Affiliates.

4 While the players, and some of the techniques, were different at each site, the core
5 businesses were similar – all were essentially telemarketing businesses owned and controlled by
6 Non-Attorney Defendants with Attorney Defendants as paid subordinates. The Non-Attorneys
7 oversaw high-volume direct mail operations which sent notices to targeted homeowners
8 directing them to toll-free numbers that rang in well-equipped call rooms manned by sales
9 personnel incentivized to “sell.” The “product” was mortgage relief via a plaintiff’s seat in a
10 mass joinder lawsuit which would result in dramatic mortgage relief, possibly even cancellation
11 of their mortgage. The common thread to all these businesses was that they were unlawful on
12 multiple fronts – all were premised on illegal fee splitting, deceptive advertising, fraud, and
13 illegal advance fees for loan modification services.

14 Tracking the flow of money was a complex undertaking. The client retainer was split
15 between Attorney Defendants and Non-Attorneys Defendants, but it first flowed through a
16 labyrinth of accounts as Attorney Defendants attempted to distance themselves from the fee-
17 splitting with the Non-Attorney Defendant sellers. Client payments were taken in by the Non-
18 Attorneys and deposited in an account in the Attorney’s name. The Attorney then wrote a
19 check back to the Non-Attorney who, in turn, paid the call room operator. The Attorneys
20 ultimately retained the smallest portion of the client retainer, while the Non-Attorneys received
21 the lion’s share.

22 Based on the State Bar’s database, the universe of consumer victims was approximately
23 9,000. By identifying the related illegal operations of Anthony Kassas and expanding the
24 receivership to the Non-Attorney Defendants’ operations based at the Red Hill Avenue site, we
25 were able to protect a larger universe of additional consumers.

26 ///

27 ///

28 ///

1 In prior reports, fee applications, and motions to the Court, we have detailed our findings
2 on Defendants' illegal operations and our efforts, on multiple fronts, to recover funds which
3 could be available for consumer redress. For purposes of this Final Report, we provide a capsule
4 summary.

5 **Immediate Access**

6 The Receiver's first mission was to implement the immediate access provisions of the
7 Receiver Orders, which compelled Defendants to provide the Receiver and the AG immediate
8 access to all business locations, including but not limited to the eleven sites identified in the
9 TRO. From this starting point, immediate access became a complex undertaking. After securing
10 each site, operations were suspended based on the determination that these businesses could not
11 be operated lawfully and profitably going forward. The Preliminary Report filed August 30,
12 2011 chronicles the details of immediate access at the businesses we found at each of the
13 following sites:

- 14 • 3151 Airway Avenue, Costa Mesa (offices of Attorney Defendants Mesa Law
15 Group and Paul Petersen);
- 16 • 30 Corporate Park, Irvine (offices of Non-Attorney Defendants Attorneys
17 Processing Center, Data Management, and Consolidated Litigation Group);
- 18 • 895 Dove Street, Newport Beach; 2082 Business Center Drive, Irvine; and 151
19 Kalmus Drive, Costa Mesa (two former and the one current address of Non-
20 Attorney Defendant Mitigation Professionals);
- 21 • 5855 Green Valley Circle, Culver City and 1800 E. Garry Ave., Santa Ana (office
22 of Non-Attorney Defendants Home Retention Division; Customer Solutions
23 Group);
- 24 • 6345 Balboa Boulevard, Encino (offices of Attorney Defendant Christopher J.
25 Van Son and Consolidated Litigation Group);
- 26 • 23901 Calabasas Road, Calabasas (offices of Attorney Defendants Kramer and
27 Kaslow); and

28 ///

- 2975 Red Hill Avenue, Costa Mesa (offices of Attorney Defendant Anthony Kassas and Non-Attorney Defendant Pate, Marier & Associates).

Operations Terminated

Once the Court entered its Preliminary Injunctions, the receivership focus shifted from identifying, locating, and securing these unlawful operators to terminating their operations, vacating their various office locations, and assembling any additional assets not already frozen by the TRO. We immediately set in motion the steps necessary to secure and store onsite business records, remove and/or liquidate furniture and equipment actually owned by these entities, vacate the various office locations, and return possession to the respective landlords. These tasks were completed as to each of the sites. The assembled records are stored in a storage unit in San Diego, California.

Receivership Accounting

The Receipts and Disbursements Summary attached as Exhibit A to this Final Report shows gross assets collected of \$1,149,893, less disbursements of \$742,326 for current net cash of \$407,567.

As summarized in Exhibit A, the primary sources of assets were the recovery of frozen funds (\$1,098,058). \$1,657.25 of those funds related to personal accounts of Mitchell J. Stein. The primary sources of disbursements were payments for professional fees for the period August 15, 2011 through October 31, 2015 which were approved and paid pursuant to the procedures set out in the Receiver Orders (\$658,854) and a transfer to the Receivership Restitution Fund (\$50,400).

If the invoices in the Final Fee Application for services from November 1, 2015 through January 31, 2016, described below, which total \$3,456.79, are approved for payment, net cash in the receivership will be \$404,110. After deducting the \$5,000 reserve for post-discharge administrative costs and the \$1,657.25 in Stein funds to be retained by the Receiver until further instruction, the remaining \$397,453.03 will be disbursed to the Attorney General's office.

///

///

1 **III. Restitution Program**

2 By Order entered April 20, 2015, the Court approved a Receivership Restitution Program
3 to be administered by the Receiver and funded by funds frozen in accounts of identified Attorney
4 Defendants. Through this program and subject to the Court's supervision, the State Bar
5 delegated to the Receiver the administration of a claims procedure to disburse any funds of the
6 Attorney Defendants remaining in their frozen accounts. The mechanics of the program were
7 jointly developed by the Receiver, the Attorney General's office, and the State Bar, and were
8 submitted to the Court in the form of a Stipulated Order. Notices were initially sent to the
9 known universe of approximately 9,000 consumers/victims identified in the files of the State
10 Bar.

11 By its Order of September 11, 2015, the Court approved the disbursement of the Net
12 Restitution Fund, which totaled \$640,000 after deduction of the program's costs, to 1,707
13 approved claimants in equal \$375 per capita payments. This distribution was completed on
14 October 2, 2015 and, consistent with the procedure in the April 20, 2015 Order, undistributed
15 funds of \$9,750 were disbursed to the Attorney General.

16 **IV. Fees of the Receiver and His Professionals**

17 Concurrent with this Final Report, the Receiver seeks final approval and ratification of
18 fees and costs previously paid to the Receiver and his professionals for services during the period
19 August 15, 2011 through October 31, 2015. These payments were approved and made pursuant
20 to the procedures in the Receiver Orders by which monthly Notices of Statements were filed and
21 served and payments then made if no objections were filed (and none were). The Receiver also
22 seeks approval to pay the final outstanding statements of the Receiver and his counsel for the
23 period November 1, 2015 through January 31, 2016 as follows: \$504.90 to the Receiver and
24 \$2,921.04 fees and \$30.85 costs to counsel McNamara Benjamin.

25 **V. Discharge of the Receiver**

26 The Receiver has completed his duties as set forth in the Receiver Orders. Accordingly,
27 the Receiver respectfully requests to be discharged with an Order providing for the following:

28 ///

1 1. The Receiver's Final Report, dated February 16, 2016, is hereby accepted and
2 approved.

3 2. The Receiver's Final Fee Application is hereby approved.

4 3. The Court approves and ratifies the payments previously paid from the
5 receivership, totaling \$658,854, for services of the Receiver and his professionals during the
6 period August 15, 2011 through October 31, 2015, which were previously approved and paid
7 pursuant to the procedures set forth in the Order Appointing Receiver entered August 15, 2011 as
8 confirmed by the Order Confirming Appointment of Receiver entered September 8, 2011.

9 4. The Court approves payment of the following fees and expenses which have not
10 previously been paid for services during the period November 1, 2015 through January 31, 2016:
11 \$504.90 fees to the Receiver and \$2,921.04 fees and \$30.85 costs to the Receiver's counsel,
12 McNamara Benjamin LLP.

13 5. The Receiver's acts, transactions, and actions during his administration of the
14 receivership as disclosed in the pleadings filed with the Court in this matter are confirmed and
15 approved as being in the best interests of the receivership estate.

16 6. Receiver Thomas W. McNamara is hereby discharged.

17 7. Receiver Thomas W. McNamara is released and exonerated from all further
18 duties, liabilities and responsibilities as Receiver herein. Mr. McNamara and the professionals
19 retained by him as Receiver shall have no personal liability of any nature for any act, omission or
20 matter pertaining to the receivership.

21 8. Within 90 days of this Order, the Receiver shall transfer to the Attorney General's
22 office the business records of Defendants that are presently in the custody of the Receiver and
23 stored in San Diego. The Attorney General's office may thereafter destroy those documents at
24 its discretion and at its cost without further order of the Court.

25 9. The Receiver is authorized to hold back a reserve of \$5,000 to cover final
26 administrative fees and costs of the receivership, including, but not limited to, document storage,
27 and administration, and may expend those funds without further order of the Court, and shall
28 remit any unexpended funds after ninety (90) days to the office of the Attorney General.

1 10. The Receiver shall retain in the receivership account the personal funds of
2 Mitchell J. Stein until further order of this Court or any court of competent jurisdiction. Stein's
3 personal funds, which were frozen pursuant to Court order, total \$1,657.25, which represents the
4 aggregate frozen funds from Wells Fargo Bank Account Numbers 240-0344194, 319-0983415,
5 and 6914676967.

6 11. After payment of the invoices approved in Paragraph 4, deduction of the amount
7 approved as a reserve in Paragraph 9, and deduction of the Stein funds to be retained as frozen,
8 the Receiver shall, within three (3) days of entry of this Order, deliver all remaining receivership
9 funds in the amount of \$397,453.03 to the office of the Attorney General.

10 12. The receivership is terminated and the Receiver is discharged.

11 13. The Receiver's bond is exonerated.

12 Dated: February 16, 2016

Respectfully submitted,

MCNAMARA BENJAMIN LLP

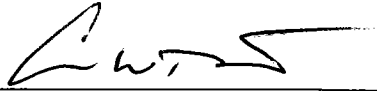
14
15 By: 
16 Andrew W. Robertson
17 Attorney for Court-Appointed Receiver
18 Email: arobertson@mcnamarallp.com
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Mass Joinder Receivership Restitution Program
Receipts and Disbursements Summary
August 15, 2011 - January 31, 2016

Receipts				
	Frozen Funds Transferred			\$ 1,098,058.21
	Liquidation - Personal Assets			\$ 19,871.29
	Liquidation - Furniture & Equipment			\$ 31,963.68
	Total Receipts			\$ 1,149,893.18
Disbursements				
	Bank Service Charges			\$ 84.11
	LexisNexis File & Serve			\$ 111.50
	Receiver's Bond			\$ 750.00
	Operating Expenses			\$ 32,125.80
		Sale of Kramer Auto	\$ 9,180.16	
		Wind Down Expenses	\$ 4,041.59	
		Bank Records Production Costs	\$ 2,371.65	
		Storage Fees	\$ 16,473.03	
		Payroll Service	\$ 59.37	
			\$ 32,125.80	
	Professional Fees			\$ 658,854.61
		Accounting	\$ 15,741.39	
		IT Consulting	\$ 38,150.13	
		Legal	\$ 442,751.31	
		Private Investigators	\$ 20,671.15	
		Receiver	\$ 141,540.63	
			\$ 658,854.61	
	Transfer to Receivership Restitution Fund			\$ 50,400.04
	Total Disbursements			\$ 742,326.06
	Journal adjustment to Receivership Account			\$ 0.05
	Net Cash at 1/31/2016			\$ 407,567.07
	Final Fee App - Receiver and Counsel Fees 11/1/15-1/31/16			\$ (3,456.79)
	Net Cash after Final Fee App			\$ 404,110.28
	Reserve post-discharge Administration			\$ (5,000.00)
	Stein frozen funds to be retained by Receiver			\$ (1,657.25)
	Net Cash for Delivery to AG			\$ 397,453.03