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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DAMIAN KUTZNER, individually and as
an officer of BROOKSTONE LAW P.C.
(California), BROOKSTONE LAW P.C.
(Nevada), ADVANTIS LAW P.C., and
ADVANTIS LAW GROUP P.C., *et al.*,

Defendants.

SACV16-00999-BRO (AFMx)

**STIPULATED
PRELIMINARY
INJUNCTION WITH ASSET
FREEZE, APPOINTMENT
OF RECEIVER, LIMITED
EXPEDITED DISCOVERY,
AND OTHER EQUITABLE
RELIEF AS TO
DEFENDANTS DAMIAN
KUTZNER, CHARLES
MARSHALL, JONATHAN
TARKOWSKI, ADVANTIS
LAW P.C., AND ADVANTIS
LAW GROUP P.C.**

Plaintiff, the Federal Trade Commission (“FTC”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card

1 Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24,
2 Section 511, 123 Stat. 1734, 1763-64 (Mar. 22, 2009) (“Credit Card Act”), and
3 amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act,
4 Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010)
5 (“Dodd-Frank Act”), 12 U.S.C. § 5538, has filed a complaint to obtain temporary,
6 preliminary, and permanent injunctive relief, rescission or reformation of contracts,
7 restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other
8 equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the
9 FTC Act, 15 U.S.C. § 45(a), and the Mortgage Assistance Relief Services Rule
10 (“MARS Rule”), 16 C.F.R. Part 322, recodified as Mortgage Assistance Relief
11 Services, 12 C.F.R. Part 1015 (“Regulation O”), and has applied for a preliminary
12 injunction order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure.

13 On June 1, 2016, this court issued its *Ex Parte Temporary Restraining Order*
14 *with Asset Freeze, Appointment of Temporary Receiver, Limited Expedited*
15 *Discovery, and Other Equitable Relief, and Order to Show Cause Why Preliminary*
16 *Injunction Should not Issue*. DE 23 (“TRO”). Defendants were ordered to appear
17 at a hearing on June 15, 2016 to “show cause, if there is any, why this Court should
18 not enter a preliminary injunction enjoining the violations of law alleged in the
19 FTC’s Complaint, continuing the freeze of their Assets, and imposing such
20 additional relief as may be necessary. *Id.* at 31. Returns of service were filed by
21 Plaintiff via ECF. DEs 30-37 & 39. This Court further ordered Defendants to file
22 with the Court and upon FTC counsel by June 8, 2016, “any answering pleadings,
23 declarations, witness lists with detailed summaries of expected witness testimony,
24 and/or legal memoranda, no later than seven days prior to the hearing.” The only
25 response filed with the Court was Jonathan Tarkowski’s Answer to the Complaint.
26 DE 26. No other Defendant has responded to the Court’s Order as of the date of
27 this filing. On June 15, 2016, the Court extended the TRO until July 1, 2016.

1 Having considered the parties' pleadings, papers, argument and stipulation
2 of counsel, the Court hereby **GRANTS** the Preliminary Injunction against
3 defendants Damian Kutzner, Charles Marshall, Jonathan Tarkowski, Advantis Law
4 P.C., and Advantis Law Group P.C.

5 **FINDINGS OF FACT**

6 This Court, having considered the FTC's Complaint, *ex parte* application,
7 declarations, exhibits, and memoranda filed in support of the FTC's application,
8 the stipulation of counsel, and the evidence presented, finds that:

9 1. This Court has jurisdiction over the subject matter of this case, and
10 there is good cause to believe it will have jurisdiction over all parties hereto;

11 2. There is good cause to believe that venue lies properly with this
12 Court;

13 3. On May 31, 2016, the FTC filed its *Complaint and Memorandum in*
14 *Support of Ex Parte Application for a Temporary Restraining Order ("TRO") with*
15 *Asset Freeze, Appointment of Temporary Receiver, Limited Expedited Discovery,*
16 *and Other Equitable Relief, and Order to Show Cause Why Preliminary Injunction*
17 *Should Not Issue ("Ex Parte Memo")* and related pleadings. DE 1, 11; DE 1-18;

18 4. On June 1, 2016, the Court entered its *Ex Parte Temporary*
19 *Restraining Order with Asset Freeze, Appointment of Temporary Receiver, Limited*
20 *Expedited Discovery, and Other Equitable Relief, and Order to Show Cause Why*
21 *Preliminary Injunction Should Not Issue.* DE 23;

22 5. The TRO, and all of the related pleadings was served on all parties by
23 personal service pursuant to Rule 4 of the Federal Rules of Civil Procedure. DEs
24 30-37, 39. Moreover, Defendant Damian Kutzner, was personally handed the TRO
25 by the Receiver on June 2, 2016, but then left the scene;

26 6. There is good cause to believe that the Court's ability to grant
27 effective final relief for consumers in the form of monetary restitution and
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1 disgorgement of ill-gotten gains will suffer immediate and irreparable damage
2 from the Stipulating Defendants' transfer, dissipation, or concealment of their
3 Assets or business records unless Stipulating Defendants continue to be restrained
4 and enjoined by Order of this Court;

5 7. Good cause exists to appoint a permanent Receiver for the Stipulating
6 Corporate Defendants;

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

10 9. Weighing the equities and considering the FTC's likelihood of
11 ultimate success, a preliminary injunction order with an Asset freeze, limited
12 expedited discovery as to the existence and location of Assets and Documents, and
13 other equitable relief is in the public interest; and

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

16 **DEFINITIONS**

17 For the purposes of this Preliminary Injunction order, the following
18 definitions apply:

19 A. "Asset" or "Assets" means any legal or equitable interest in, right to,
20 or claim to, any and all real and personal property of Stipulating Defendants, or
21 held for the benefit of Stipulating Defendants, wherever located, whether in the
22 United States or abroad, including but not limited to chattel, goods, instruments,
23 equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or
24 other deliveries, inventory, checks, notes, accounts, credits, receivables (as those
25 terms are defined in the Uniform Commercial Code), shares of stock, futures, all
26 cash or currency, and trusts, including but not limited to a trust held for the benefit
27 of any Stipulating Defendant, any of the Stipulating Individual Defendants' minor
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1 children, or any of the Stipulating Individual Defendants’ spouses, and shall
2 include both existing Assets and Assets acquired after the date this order is signed,
3 or any interest therein.

4 B. “**Asset Freeze Accounts**” includes accounts that are held by or for the
5 benefit of, or controlled by, directly or indirectly, any Stipulating Defendant, ,
6 Broad Base Inc., Federal Management Systems Inc., Black Gold Leasing Inc.,
7 HTM LLC, Liberty Management Group Inc., Scripts Development Inc., Serious
8 Pimp Inc., UHG Inc., United Holdings and Acquisitions Inc., Vizcayan
9 Corporation, and ZEC Management Corp. Asset Freeze Accounts also includes
10 the following accounts, identified by the account holder, the Financial Institution,
11 and last four digits of the account number:

- 12 1. Advantis Law, Bank of America, No. unknown;
- 13 2. Advantis Law, California Republic Bank, No. unknown;
- 14 3. Black Gold Leasing Inc., JPMorgan Chase, 7178;
- 15 4. Broad Base Inc., JPMorgan Chase, 3379;
- 16 5. Broad Base Inc., JPMorgan Chase, 3819;
- 17 6. Charles T. Marshall, JPMorgan Chase, 4691;
- 18 7. Charles T. Marshall, JPMorgan Chase, 4708;
- 19 8. Charles T. Marshall, JPMorgan Chase, 6085;
- 20 9. Charles T. Marshall, JPMorgan Chase, 7957;
- 21 10. Charles T. Marshall, JPMorgan Chase, 8120;
- 22 11. Charles T. Marshall, JPMorgan Chase, 2107;
- 23 12. Charles T. Marshall, Bank of America, 1763;
- 24 13. Damian Kutzner, JPMorgan Chase, 9111;
- 25 14. Federal Management Systems Inc., JPMorgan Chase, 2850;
- 26 15. .

1 C. **“Assisting others”** includes but is not limited to: (1) performing
2 customer service functions, including, but not limited to, receiving or responding
3 to consumer complaints; (2) formulating or providing, or arranging for the
4 formulation or provision of, any advertising or marketing material, including but
5 not limited to, any telephone sales script, direct mail solicitation, or the design,
6 text, or use of images of any Internet website, email, or other electronic
7 communications; (3) formulating or providing, or arranging for the formulation or
8 provision of, any marketing support material or service, including but not limited
9 to, web or Internet Protocol addresses or domain name registration for any Internet
10 websites, affiliate marketing services, or media placement services; (4) providing
11 names of, or assisting in the generation of, potential customers; (5) performing or
12 providing marketing, billing, or payment services of any kind; (6) acting or serving
13 as an owner, officer, director, manager, or principal of any entity; (7) providing
14 telemarketing services; or (8) consulting with regard to any of the above.

15 D. **“Corporate Defendants”** means, collectively, Advantis Law P.C.,
16 Advantis Law Group P.C., Brookstone Law P.C. (California), Brookstone Law
17 P.C. (Nevada), and their successors, assigns, affiliates, or subsidiaries, and each of
18 them by whatever names each might be known.

19 E. **“Defendants”** means the Individual Defendants, Corporate
20 Defendants, and their successors, assigns, affiliates, subsidiaries, or agents,
21 individually, collectively, or in any combination, and each of them by whatever
22 names each might be known.

23 F. **“Document”** is synonymous in meaning and equal in scope to the
24 terms “Document” and “electronically stored information,” as described and used
25 in the Federal Rules of Civil Procedure. This includes, but is not limited to,
26 electronic mail, instant messaging, videoconferencing, and other electronic
27 correspondence (whether active, archived, or in a deleted items folder), word
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1 processing files, spreadsheets, databases, and video and sound recordings, whether
2 stored on: cards; magnetic or electronic tapes; disks; computer hard drives,
3 network shares or servers, or other drives; cloud-based platforms; cell phones,
4 PDAs, computer tablets, or other mobile devices; or other storage media.

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

9 H. **“Financial Institution”** means any bank, savings and loan institution,
10 credit union, payment processor, trust, or any financial depository of any kind,
11 including but not limited to, any brokerage house, trustee, broker-dealer, escrow
12 agent, title company, commodity trading company, or precious metal dealer.

13 I. **“Individual Defendants”** means, collectively, Damian Kutzner, Vito
14 Torchia, Jonathan Tarkowski, Geoffrey Broderick, Charles Marshall, and any other
15 names they might use, have used, be known by or have been known by.

16 J. **“Mortgage assistance relief product or service”** or **“MARS”** means
17 any product, service, plan, or program, offered or provided to the consumer in
18 exchange for consideration, that is represented, expressly or by implication, to
19 assist or attempt to assist the consumer with any of the following:

20 1. stopping, preventing, or postponing any mortgage or deed of
21 trust foreclosure sale for the consumer’s dwelling, any repossession of the
22 consumer’s dwelling, or otherwise saving the consumer’s dwelling from
23 foreclosure or repossession;

24 2. negotiating, obtaining, or arranging a modification of any term
25 of a dwelling loan, including a reduction in the amount of interest, principal
26 balance, monthly payments, or fees;

1 3. obtaining any forbearance or modification in the timing of
2 payments from any dwelling loan holder or servicer on any dwelling loan;

3 4. negotiating, obtaining, or arranging any extension of the period
4 of time within which the consumer may (i) cure his or her default on a dwelling
5 loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise
6 any right to reinstate a dwelling loan or redeem a dwelling;

7 5. obtaining any waiver of an acceleration clause or balloon
8 payment contained in any promissory note or contract secured by any dwelling; or

9 6. negotiating, obtaining, or arranging (i) a short sale of a
10 dwelling, (ii) a deed-in-lieu of foreclosure, (iii) or any other disposition of a
11 dwelling loan other than a sale to a third party that is not the dwelling loan holder.

12 The foregoing shall include any manner of claimed assistance, including, but
13 not limited to, auditing or examining a consumer's mortgage or home loan
14 application and offering to provide or providing legal services, or offering to sell a
15 consumer a plan or subscription to a service that provides such assistance.

16 K. **“Person”** means any individual, group, unincorporated association,
17 limited or general partnership, corporation or other business entity.

18 L. **“Plaintiff”** means the Federal Trade Commission (“Commission” or
19 “FTC”).

20 M. **“Receivership Entities”** means Corporate Defendants and any
21 entities that are part of Defendants' common enterprise, including but not limited
22 to Broad Base Inc. and Federal Management Systems Inc. “Receivership Entities”
23 includes businesses that lack formal legal structure (such as businesses operating
24 under fictitious business names), but that otherwise satisfy the definition of
25 “Receivership Entity.”

1 N. **“Receiver”** means the Receiver appointed in this Order. The term
2 “Receiver” also includes any deputy receivers or agents as may be named by the
3 Receiver.

4 O. **“Stipulating Individual Defendants”** means Damian Kutzner,
5 Charles Marshall, and Jonathan Tarkowski and any other names they might use,
6 have used, be known by or have been known by.

7 P. **“Stipulating Corporate Defendants”** means Advantis Law P.C., and
8 Advantis Law Group P.C. and their successors, assigns, affiliates, or subsidiaries,
9 and each of them by whatever names each might be known.

10 Q. **“Stipulating Defendants”** means collectively Stipulating Individual
11 Defendants and Stipulating Corporate Defendants and their successors, assigns,
12 affiliates, subsidiaries, or agents, individually, collectively, or in any combination,
13 and each of them by whatever names each might be known.

14 **I. PROHIBITED REPRESENTATIONS**

15 **IT IS THEREFORE ORDERED** that Stipulating Defendants, their
16 officers, agents, servants, employees, and attorneys, and all other persons in active
17 concert or participation with any of them, who receive actual notice of this Order,
18 whether acting directly or indirectly, in connection with the advertising, marketing,
19 promotion, offering for sale, sale, or performance of any service or product, are
20 restrained and enjoined from misrepresenting or assisting others in
21 misrepresenting, expressly or by implication:

22 A. Stipulating Defendants are likely to obtain relief for consumers,
23 including “at least \$75,000” or consumers’ homes free and clear;

24 B. Stipulating Defendants will seek to void consumers’ mortgages;

25 C. Stipulating Defendants have a team of experienced lawyers and
26 personnel to litigate mass joinder cases alleging lender fraud and related claims;
27 and
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1 D. Stipulating Defendants will file lawsuits on particular consumers'
2 behalf.

3 **II. DISCLOSURES REQUIRED BY AND REPRESENTATIONS**
4 **PROHIBITED BY THE MARS RULE**

5 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
6 agents, servants, employees, and attorneys, and all other persons in active concert
7 or participation with any of them, who receive actual notice of this Order, whether
8 acting directly or indirectly, in connection with the advertising, marketing,
9 promotion, offering for sale, sale, or provision of any mortgage assistance relief
10 product or service, are hereby restrained and enjoined from engaging in, or
11 assisting others in engaging in, the following conduct:

12 A. Misrepresenting, expressly or by implication, any material aspect of
13 any mortgage assistance relief service, as required by 12 C.F.R. § 1015.3(b);

14 B. Failing to make the following disclosure in all general and consumer-
15 specific commercial communications: “[Name of Company] is not associated with
16 the government, and our service is not approved by the government or your
17 lender,” as required by 12 C.F.R. § 1015.4(a)(1) & 1015.4(b)(2);

18 C. Failing to make the following disclosure in all general and consumer-
19 specific commercial communications: “Even if you accept this offer and use our
20 service, your lender may not agree to change your loan,” as required by 12 C.F.R.
21 § 1015.4(a)(2) & 1015.4(b)(3); and

22 D. Failing to make the following disclosure in all consumer-specific
23 commercial communications: “You may stop doing business with us at any time.
24 You may accept or reject the offer of mortgage assistance we obtain from your
25 lender [or servicer]. If you reject the offer, you do not have to pay us. If you
26 accept the offer, you will have to pay us [insert amount or method for calculating
27 the amount] for our services,” as required by 12 C.F.R. § 1015.4(b)(1). For the
28 purposes of this subsection, the amount “you will have to pay” shall consist of the

1 total amount the consumer must pay to purchase, receive, and use all of the
2 mortgage assistance relief services that are the subject of the sales offer, including
3 but not limited to, all fees and charges.

4 **III. MARS RULE ADVANCE FEE PROHIBITION**

5 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
6 agents, servants, employees, and attorneys, and all other persons in active concert
7 or participation with any of them, who receive actual notice of this Order, whether
8 acting directly or indirectly, in connection with the advertising, marketing,
9 promotion, offering for sale, sale, or provision of any mortgage assistance relief
10 product or service are hereby restrained and enjoined from asking for, or receiving
11 payment of, any fee or other consideration until a consumer has executed a written
12 agreement between the consumer and the consumer's loan holder or servicer
13 incorporating the offer of mortgage assistance relief the Stipulating Defendants
14 obtained on the consumer's behalf.

15 **IV. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

16 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
17 agents, servants, employees, and attorneys, and all other persons in active concert
18 or participation with any of them, who receive actual notice of this Order, whether
19 acting directly or indirectly, in connection with the advertising, marketing,
20 promotion, offering for sale, sale, or provision of any product or service, are
21 hereby restrained and enjoined from destroying, erasing, mutilating, concealing,
22 altering, transferring, or otherwise disposing of, in any manner, directly or
23 indirectly, any Documents or records that relate to the business practices, or
24 business and personal finances, of Defendants, or an entity directly or indirectly
25 under the control of Defendants.

1 **V. DISABLEMENT OF WEBSITES AND PRESERVATION OF**
2 **ELECTRONICALLY STORED INFORMATION**

3 **IT IS FURTHER ORDERED** that, immediately upon service of the Order
4 upon them, (1) any Electronic Data Host and (2) Stipulating Defendants, their
5 officers, agents, servants, employees, and attorneys, and all other persons in active
6 concert or participation with any of them, who receive actual notice of this Order,
7 whether acting directly or indirectly, shall:

8 A. Immediately take all necessary steps to ensure that any Internet
9 website used by Defendants for the advertising, marketing, promotion, offering for
10 sale, sale, or provision of services or products relating to consumers' mortgages or
11 containing statements or representations prohibited by Section I of this Order
12 cannot be accessed by the public; and

13 B. Prevent the alteration, destruction or erasure of any (1) Internet
14 website used by Defendants for the advertising, marketing, promotion, offering for
15 sale, sale, or provision of services or products relating to consumers' mortgages by
16 preserving such websites in the format in which they are maintained currently and
17 (2) any electronically stored information stored on behalf of Corporate Defendants,
18 or entities in active concert or participation with any of them.

19 **VI. SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

20 **IT IS FURTHER ORDERED** that any domain name registrar shall
21 suspend the registration of any Internet website used by Stipulating Defendants for
22 the advertising, marketing, promotion, offering for sale, sale, or provision of
23 services or products relating to consumers' mortgages or containing statements or
24 representations prohibited by Section I of this Order and provide immediate notice
25 to counsel for the FTC of any other Internet domain names registered by
26 Stipulating Defendants, their officers, agents, servants, employees, and attorneys,
27 and all other persons in active concert or participation with any of them who
28 receive actual notice of this Order by personal service or otherwise.

1 **VII. PROHIBITION ON USE OF CUSTOMER INFORMATION**

2 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
3 agents, directors, servants, employees, salespersons, and attorneys, as well as all
4 other persons or entities in active concert or participation with them, who receive
5 actual notice of this Order by personal service or otherwise, whether acting directly
6 or through any trust, corporation, subsidiary, division, or other device, are hereby
7 restrained and enjoined from using, benefitting from, selling, renting, leasing,
8 transferring, or otherwise disclosing the name, address, telephone number, email
9 address, Social Security number, credit card number, debit card number, bank
10 account number, any financial account number, or any data that enables access to
11 any customer's account, or other identifying information of any person which any
12 Defendant obtained prior to when this Order is signed in connection with the
13 marketing or sale of any product or service, including those who were contacted or
14 are on a list to be contacted by any of the Defendants; provided that Stipulating
15 Defendants may disclose such identifying information to the Receiver, a law
16 enforcement agency, or as required by any law, regulation, or court order.

17 **VIII. ASSET FREEZE**

18 **IT IS FURTHER ORDERED** that Stipulating Defendants, and their
19 officers, agents, servants, and employees, and all other persons or entities directly
20 or indirectly under the control of any of them, and all other persons or entities in
21 active concert or participation with any of them who receive actual notice of this
22 Order are hereby restrained and enjoined from directly or indirectly:

23 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
24 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing,
25 granting a lien or security interest or other interest in, or otherwise disposing of any
26 Assets, or any interest therein, wherever located, including outside the United
27 States, that are:

- 28 1. Asset Freeze Accounts;

1 2. owned or controlled, directly or indirectly, by any Stipulating
2 Defendant, in whole or in part, or held, in whole or in part, for the benefit of any
3 Stipulating Defendant;

4 3. in the actual or constructive possession of any Stipulating
5 Defendant; or

6 4. owned, controlled by, or in the actual or constructive possession
7 of any corporation, partnership, or other entity directly or indirectly owned,
8 managed, or controlled by, or under common control with any Stipulating
9 Defendant, including any entity acting under a fictitious name owned by or
10 controlled by any Stipulating Defendant, and any Assets held by, for, or under the
11 name of any Stipulating Defendant at any bank or savings and loan institution, or
12 with any broker-dealer, escrow agent, title company, commodity trading company,
13 payment processing company, precious metal dealer, or other Financial Institution
14 or depository of any kind;

15 B. Opening or causing to be opened any safe deposit boxes titled in the
16 name of any Stipulating Defendant, or subject to access by any Stipulating
17 Defendant;

18 C. Incurring charges or cash advances on any credit card, debit card, or
19 checking card issued in the name, singly or jointly, of any Stipulating Defendant;

20 D. Obtaining a personal or secured loan;

21 E. Incurring liens or encumbrances on real property, personal property or
22 other Assets in the name, singly or jointly, of any Stipulating Defendant; and

23 F. Cashing any checks or depositing any money orders or cash received
24 from consumers, clients, or customers of any Stipulating Defendant.

25 **IT IS FURTHER ORDERED** that the Assets affected by this Section shall
26 include: (1) all Assets of Stipulating Defendants as of the time the TRO was
27 entered; and (2) for Assets obtained after the time the TRO was entered, those
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1 Assets of Stipulating Defendants that are derived, directly or indirectly, from the
2 Defendants' activities as described in the Commission's Complaint, including the
3 activities of any Receivership Entity. This Section does not prohibit transfers to
4 the Receiver, as specifically required in the Section titled "Transfer of Funds to the
5 Receiver by Financial Institutions and Other Third Parties," nor does it prohibit the
6 repatriation of foreign Assets, as specifically required in the Section titled
7 "Repatriation of Foreign Assets" of this Order.

8 **IX. RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES**

9 **IT IS FURTHER ORDERED** that any Financial Institution, business
10 entity, Electronic Data Host, or person served with a copy of this Order that holds,
11 controls, or maintains custody of any account, Document, or Asset of, on behalf of,
12 in the name of, for the benefit of, subject to withdrawal by, subject to access or use
13 by, or under the signatory power of any Stipulating Defendant, or other party
14 subject to the Asset Freeze above, or has held, controlled, or maintained any such
15 account, Document, or Asset, shall:

16 A. Hold, preserve, and retain within such entity's or person's control, and
17 prohibit the withdrawal, removal, alteration, assignment, transfer, pledge,
18 hypothecation, encumbrance, disbursement, dissipation, conversion, sale,
19 liquidation, or other disposal of such account, Document, or Asset held by or under
20 such entity's or person's control, except as directed by further order of the Court;

21 B. Provide the Receiver immediate access to electronically stored
22 information stored, hosted, or otherwise maintained on behalf of any Stipulating
23 Defendant for forensic imaging;

24 C. Deny access to any safe deposit boxes that are either titled in the name
25 of, individually or jointly, or subject to access by, any Stipulating Defendant or
26 other party subject to the Asset Freeze above; and
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1 D. Provide to counsel for the FTC, within one (1) business day of
2 service, a sworn statement setting forth:

3 1. the identification of each account or Asset titled in the name,
4 individually or jointly, or held on behalf of or for the benefit of, subject to
5 withdrawal by, subject to access or use by, or under the signatory power of any
6 Stipulating Defendant or other party subject to the Asset Freeze above;

7 2. the balance of each such account, or a description of the nature
8 and value of such Asset, as of the close of business on the day on which this Order
9 is served, the day before the Order is served, and the average daily balance for the
10 six months before the Order is served;

11 3. the identification of any safe deposit box that is either titled in
12 the name of, individually or jointly, or is otherwise subject to access or control by,
13 any Stipulating Defendant or other party subject to the Asset Freeze above; and

14 4. if the account, safe deposit box, or other Asset has been closed
15 or removed, the date closed or removed, the balance on said date, and the name or
16 the person or entity to whom such account or other Asset was remitted;

17 E. Provide counsel for the FTC, within three (3) business days after
18 being served with a request, copies of all Documents pertaining to such account or
19 Asset, including but not limited to: account statements, account applications,
20 signature cards, underwriting files, checks, deposit tickets, transfers to and from
21 the accounts, wire transfers, all other debit and credit instruments or slips, 1099
22 forms, and safe deposit box logs; and

23 F. Cooperate with all reasonable requests of the FTC relating to this
24 Order's implementation.

25 **IT IS FURTHER ORDERED** that this Section shall apply to (a) all Assets
26 as of the time the TRO was entered; and (b) for Assets obtained after the TRO was
27 entered, those Assets that are derived, directly or indirectly, from the Defendants'
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1 activities as described in the Commission's Complaint, including the activities of
2 any Receivership Entity. This Section does not prohibit transfers to the Receiver,
3 as specifically required in the Section titled "Transfer of Funds to the Receiver by
4 Financial Institutions and Other Third Parties," nor does it prohibit the repatriation
5 of foreign Assets, as specifically required in the Section titled "Repatriation of
6 Foreign Assets" of this Order.

7 **IT IS FURTHER ORDERED** that in addition to the information and
8 documents required to be produced pursuant to other provisions herein, the FTC is
9 granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena documents immediately
10 from any financial or brokerage institution, business entity, electronic data host, or
11 person served with a copy of this Order that holds, controls, or maintains custody
12 of any account, document, electronically stored information, or asset of, on behalf
13 of, in the name of, for the benefit of, subject to withdrawal by, subject to access or
14 use by, or under the signatory power of any Stipulating Defendant, or other party
15 subject to Section VIII above, or has held, controlled, or maintained any such
16 account, document, electronically stored information, or asset, and such financial
17 or brokerage institution, business entity, electronic data host or person shall
18 respond to such subpoena within three (3) business days after service. The FTC
19 may effect service by electronic mail.

20 **X. FINANCIAL STATEMENTS AND ACCOUNTING**

21 **IT IS FURTHER ORDERED** that any Stipulating Defendant that has not
22 yet provided Financial Statements to the FTC in accordance with Section VIII of
23 the TRO, within (1) business days of entry of this Order, shall prepare and deliver
24 to counsel for the FTC:

25 A. For Stipulating Individual Defendants, a completed financial
26 statement, accurate as of the date of service of this Order upon such Defendant, in
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1 the form of Attachment A to this Order captioned “Financial Statement of
2 Individual Defendant.”

3 B. For Stipulating Corporate Defendants, a completed financial
4 statement, accurate as of the date of service of this Order upon such Defendant
5 (unless otherwise agreed upon with FTC counsel), in the form of Attachment B to
6 this Order captioned “Financial Statement of Corporate Defendant.”

7 **XI. CREDIT REPORTS**

8 **IT IS FURTHER ORDERED** that the FTC may obtain credit reports
9 concerning any Stipulating Defendant pursuant to Section 604(a)(1) of the Fair
10 Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any
11 credit reporting agency from which such reports are requested shall provide them
12 to the FTC.

13 **XII. REPATRIATION OF FOREIGN ASSETS**

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

17 A. Transfer to the territory of the United States and provide the FTC and
18 the Receiver with a full accounting of all Assets, Documents, and records outside
19 of the territory of the United States that are:

- 20 1. owned or controlled by;
- 21 2. subject to access by;
- 22 3. held in whole or in part for the benefit of;
- 23 4. belonging to any entity that is directly or indirectly owned,
24 managed, or under the control of; or
- 25 5. belonging to a person under the control of any Stipulating
26 Defendant;

1 B. Hold all repatriated Assets, Documents, and records as required by the
2 Asset Freeze imposed by this Order; and

3 C. Provide the FTC access to all records of accounts or Assets of the
4 Stipulating Defendants held by any Financial Institution or other person located
5 outside the territorial United States by signing the Consent to Release of Financial
6 Records attached to this Order as Attachment C and by signing any other
7 Documents required by any person, including any Financial Institution, or other
8 person holding any such Asset.

9 **XIII. NON-INTERFERENCE WITH REPATRIATION**

10 **IT IS FURTHER ORDERED** that Stipulating Defendants, and each of
11 their successors, assigns, members, officers, agents, servants, employees, and
12 attorneys, and those persons in active concert or participation with them who
13 receive actual notice of this Order by personal service or otherwise, whether acting
14 directly or through any entity, corporation, subsidiary, division, affiliate or other
15 device, are hereby restrained and enjoined from taking any action, directly or
16 indirectly, that may result in the encumbrance or dissipation of foreign Assets, or
17 in the hindrance of the repatriation required by the preceding “Repatriation of
18 Assets” Section of this Order, including, but not limited to:

19 A. Sending any statement, letter, fax, email or wire transmission, or
20 telephoning or engaging in any other act, directly or indirectly, that results in a
21 determination by a foreign trustee or other entity that a “duress” event has occurred
22 under the terms of a foreign trust agreement until such time that all Assets have
23 been fully repatriated pursuant to the “Repatriation of Assets” Section of this
24 Order; or

25 B. Notifying any trustee, protector, or other agent of any foreign trust or
26 other related entities of either the existence of this Order, or of the fact that
27 repatriation is required pursuant to a court order, until such time that all Assets
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1 have been fully repatriated pursuant to “Repatriation of Assets” Section of this
2 Order.

3 **XIV. RECORDKEEPING AND BUSINESS OPERATIONS**

4 **IT IS FURTHER ORDERED** that Stipulating Defendants are hereby
5 restrained and enjoined from:

6 A. Failing to create and maintain Documents that, in reasonable detail,
7 accurately, fairly, and completely reflect their incomes, disbursements,
8 transactions, and use of money;

9 B. Creating, operating, or exercising any control over any business
10 entity, including any partnership, limited partnership, joint venture, sole
11 proprietorship, limited liability company or corporation, without first providing the
12 Commission with a written statement disclosing: (1) the name of the business
13 entity; (2) the address and telephone number of the business entity; (3) the names
14 of the business entity’s officers, directors, principals, managers, and employees;
15 and (4) a detailed description of the business entity’s intended activities; and

16 C. Affiliating with, becoming employed by, or performing any work for
17 any business that is not a named Defendant in this action without first providing
18 the Commission with a written statement disclosing: (1) the name of the business;
19 (2) the address and telephone number of the business; and (3) a detailed description
20 of the nature of the business or employment and the nature of the Stipulating
21 Defendant’s duties and responsibilities in connection with that business or
22 employment.

23 **XV. APPOINTMENT OF RECEIVER**

24 **IT IS FURTHER ORDERED** that Thomas McNamara, the Temporary
25 Receiver named in the TRO, is appointed Receiver for the Receivership Entities,
26 with the full power of an equity Receiver. The Receiver shall be the agent of this
27 Court and solely the agent of this Court in acting as Receiver under this Order.
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1 The Receiver shall be accountable directly to this Court. The Receiver shall
2 comply with all local rules and laws governing federal equity receivers.

3 **XVI. COOPERATION WITH THE RECEIVER**

4 **IT IS FURTHER ORDERED** that Stipulating Defendants shall fully
5 cooperate with and assist the Receiver. Stipulating Defendants' cooperation and
6 assistance shall include, but not be limited to, providing any information to the
7 Receiver that the Receiver deems necessary to exercise the authority and discharge
8 the responsibilities of the Receiver under this Order; providing any login,
9 password, or biometric identifier required to access any computer or electronic
10 files or information in or on any medium; and advising all persons who owe money
11 to the Receivership Entities that all debts should be paid directly to the Receiver.
12 Stipulating Defendants are hereby restrained and enjoined from directly or
13 indirectly:

- 14 A. Transacting any of the business of the Receivership Entities;
15 B. Excusing debts owed to the Receivership Entities;
16 C. Destroying, secreting, defacing, transferring, or otherwise altering or
17 disposing of any Documents of the Receivership Entities;
18 D. Transferring, receiving, altering, selling, encumbering, pledging,
19 assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or
20 in the possession or custody of, or in which an interest is held or claimed by, the
21 Receivership Entities, or the Receiver;
22 E. Failing to provide any assistance or information requested by the
23 Receiver in connection with obtaining possession, custody, or control of any
24 Assets within the receivership estate that the Receiver or the FTC has identified; or
25 F. Doing any act or thing whatsoever to interfere with the Receiver's
26 taking and keeping custody, control, possession, or managing of the Assets or
27 Documents subject to this receivership; or to harass or interfere with the Receiver
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1 in any way; or to interfere in any manner with the exclusive jurisdiction of this
2 Court over the Assets or Documents of the Receivership Entities; or to refuse to
3 cooperate with the Receiver or the Receiver's duly authorized agents in the
4 exercise of their duties or authority under any Order of this Court.

5 **XVII. DUTIES AND AUTHORITY OF RECEIVER**

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

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

12 B. Take exclusive custody, control, and possession of all Assets and
13 Documents of, or in the possession, custody, or under the control of, any
14 Receivership Entity, wherever situated. The Receiver shall have full power to
15 divert mail and to sue for, collect, receive, take possession of, hold, and manage all
16 Assets and Documents of the Receivership Entities and other persons or entities
17 whose interests are now held by or under the direction, possession, custody, or
18 control of the Receivership Entities;

19 C. Take all steps necessary to secure the business premises of the
20 Receivership Entities, which may include, but are not limited to, taking the
21 following steps as the Receiver deems necessary or advisable: (1) serving and
22 filing this Order; (2) completing a written inventory of all receivership Assets; (3)
23 obtaining pertinent information from all employees and other agents of the
24 Receivership Entities, including, but not limited to, the name, home address, Social
25 Security number, job description, method of compensation, and all accrued and
26 unpaid commissions and compensation of each such employee or agent; (4) video-
27 recording and/or photographing all portions of the location at which any
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1 Receivership Entity conducts business or has Assets; (5) changing the locks and
2 disconnecting any computer networks or other means of access to electronically
3 stored information or other Documents maintained at that location; or (6) requiring
4 any persons present on the premises at the time this Order is served to leave the
5 premises, to provide the Receivers with proof of identification, and/or to
6 demonstrate to the satisfaction of the Receiver that such persons are not removing
7 from the premises Documents or Assets of the Receivership Entities. Such
8 authority shall include, but not be limited to, the authority to order any owner,
9 director, officer, employee, or agent of the Receivership Entities to leave the
10 business premises;

11 D. Conserve, hold, and manage all receivership Assets, and perform all
12 acts necessary or advisable to preserve the value of those Assets, in order to
13 prevent any irreparable loss, damage, or injury to consumers, including, but not
14 limited to, obtaining an accounting of the Assets and preventing the transfer,
15 withdrawal, or misapplication of Assets;

16 E. Enter into contracts and purchase insurance as advisable or necessary;

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

20 G. Manage and administer the business of the Receivership Entities until
21 further order of this Court by performing all incidental acts that the Receiver
22 deems to be advisable or necessary, which includes retaining, hiring, or dismissing
23 any employees, independent contractors, or agents;

24 H. Continue and conduct the businesses of the Defendants in such
25 manner, to such extent, and for such duration as the Receiver may in good faith
26 deem to be necessary or appropriate to operate the businesses profitably, using the
27 Assets of the receivership estate, and lawfully, if at all;

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1 I. Choose, engage, and employ attorneys, accountants, appraisers,
2 investigators, and other independent contractors and technical specialists, as the
3 Receiver deems advisable or necessary in the performance of their duties and
4 responsibilities, including but not limited to the law firm in which the Receiver is a
5 partner;

6 J. Make payments and disbursements from the receivership estate that
7 are necessary or advisable for carrying out the directions of, or exercising the
8 authority granted by, this Order. The Receiver shall apply to the Court for prior
9 approval of any payment of any debt or obligation incurred by the Receivership
10 Entities prior to the date this Order is signed, except payments that the Receiver
11 deems necessary or advisable to secure Assets of the Receivership Entities, such as
12 rental payments;

13 K. Collect any money due or owing to the Receivership Entities;

14 L. Institute, compromise, adjust, appear in, intervene in, or become party
15 to such actions or proceedings in state, federal or foreign courts that the Receiver
16 deems necessary and advisable to preserve or recover the Assets of the
17 Receivership Entities, or to carry out the Receiver's mandate under this Order;

18 M. Defend, compromise, adjust, or otherwise dispose of any or all actions
19 or proceedings instituted against the Receivership Entities or the Receiver that the
20 Receiver deems necessary and advisable to preserve the Assets of the Receivership
21 Entities, or to carry out the Receiver's mandate under this Order;

22 N. Take depositions and issue subpoenas to obtain Documents and
23 records pertaining to the receivership and compliance with this Order. Subpoenas
24 may be served by electronic mail, by agents or attorneys of the Receiver and by
25 agents of any process server retained by the Receiver;

26 O. Open one or more bank accounts as designated depositories for funds
27 of the Receivership Entities. The Receiver shall deposit all funds of the
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1 Receivership Entities in such a designated account and shall make all payments
2 and disbursements from the receivership estate from such an account;

3 P. Maintain accurate records of all receipts and expenditures made by the
4 Receiver;

5 Q. Cooperate with reasonable requests for information or assistance from
6 any state or federal law enforcement agency;

7 R. Permit, within the Receiver's discretion, copies of client files to be
8 given to a lawyer working for a Receivership Entity if the files relate to a matter
9 other than one within the scope of the allegations in the Complaint;

10 S. File, within the Receiver's discretion, notices in any ongoing litigation
11 being conducted by a lawyer working for or with the Receivership Entity,
12 informing that court and the parties, that the Receivership Entities have been
13 placed in a receivership, that the Receivership Entities are withdrawing from the
14 case, and further seek leave of that court for a stay of all proceedings for at least
15 ninety (90) days to permit any client of the Receivership Entities to obtain
16 replacement counsel, *provided, however*, that the Receiver will not be required to
17 litigate, or hire attorneys to litigate, any such pending cases; and

18 T. Identify all attorney-client files held by a Receivership Entity; take
19 reasonable steps to contact current clients to inform them of the receivership; take
20 reasonable steps to advise current clients that the Receiver will not be providing
21 any attorney services and that the clients may seek replacement counsel; and return
22 any client files to the clients upon request; *provided, however*, that the Receiver
23 maintain a copy of all such client files; *and provided further*, the Receiver is
24 authorized to work with representatives of the California State Bar to perform
25 these actions.

26 **XVIII. TRANSFER OF FUNDS TO THE RECEIVER BY FINANCIAL**
27 **INSTITUTIONS AND OTHER THIRD PARTIES**

28 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order,

1 any Financial Institution shall cooperate with all reasonable requests of counsel for
2 the FTC and the Receiver relating to implementation of this Order, including
3 transferring funds at the Receiver's direction and producing records related to the
4 Assets and sales of the Receivership Entities.

5 **XIX. RECEIVER'S REPORTS**

6 **IT IS FURTHER ORDERED** that the Receiver shall report to this Court
7 on or before August 1, 2016, regarding: (1) the steps taken by the Receiver to
8 implement the terms of this Order; (2) the value of all liquidated and unliquidated
9 Assets of the Receivership Entities; (3) the sum of all liabilities of the Receivership
10 Entities; (4) the steps the Receiver intends to take in the future to: (a) prevent any
11 diminution in the value of Assets of the Receivership Entities; (b) pursue
12 receivership Assets from third parties; and (c) adjust the liabilities of the
13 Receivership Entities, if appropriate; and (5) any other matters which the Receiver
14 believes should be brought to the Court's attention. Provided, however, if any of
15 the required information would hinder the Receiver's ability to pursue receivership
16 Assets, the portions of the Receiver's report containing such information may be
17 filed under seal and not served on the parties.

18 **XX. COMPENSATION OF THE RECEIVER**

19 **IT IS FURTHER ORDERED** that the Receiver, and all persons or entities
20 retained or hired by the Receiver as authorized under this Order, shall be entitled to
21 reasonable compensation for the performance of duties undertaken pursuant to this
22 Order and for the cost of actual out-of-pocket expenses incurred by them from the
23 Assets now held by or in the possession or control of, or which may be received
24 by, the Receivership Entities. The Receiver shall file with the Court and serve on
25 the parties a request for the payment of reasonable compensation at the time of the
26 filing of any report required by the "Receiver's Reports" Section of this Order.

1 The Receiver shall not increase the fees or rates used as the bases for such fee
2 applications without prior approval of the Court.

3 **XXI. RECEIVER'S ACCESS TO BUSINESS PREMISES AND RECORDS**

4 **IT IS FURTHER ORDERED** that:

5 A. The Receiver, and his representatives, agents, and assistants, shall
6 have continued access to all business premises and storage facilities, owned,
7 controlled, or used by any Receivership Entity, including but not limited to the
8 offices and facilities at 6 Hutton Centre Drive, Suite 1000, Santa Ana, CA 92707,
9 and any offsite commercial mail boxes or virtual offices used by any Receivership
10 Entity. The Receiver is authorized to employ the assistance of law enforcement as
11 he deems necessary to effect service and peacefully implement this Order. The
12 Receiver may exclude Receivership Entities and their employees from part or all of
13 the business premises during the immediate access. The purpose of the immediate
14 access shall be to effect service and to inspect and copy the business and financial
15 records of the Receivership Entities, including forensic imaging of electronically
16 stored information. Such business records include, but are not limited to,
17 correspondence, contracts, emails, and financial data;

18 B. The Receiver and its representatives, agents, and assistants, shall have
19 the right to remove materials from the above-listed premises for inspection and
20 copying;

21 C. Receivership Entities and all employees or agents of Receivership
22 Entities shall provide the Receiver with any necessary means of access to
23 Documents and records, including, without limitation, the locations of the
24 Receivership Entities' business premises, keys and combinations to locks,
25 computer access codes, and storage area access information;

1 D. If any Individual Stipulating Defendant possesses a smartphone or
2 tablet on receivership premises, they will turn over the device to the Receiver for
3 imaging. Within two business days, the Receiver will return the device; and

4 E. If any Documents, computers, smartphones, tablets, or electronic data
5 storage devices containing information related to the business practices or finances
6 of the Receivership Entities are at a location other than those listed herein,
7 including but not limited to, the personal residence(s) of the Stipulating
8 Defendants, then, immediately upon notice of this Order, Stipulating Defendants
9 shall produce to the Receiver all such Documents, computers, smartphones, tablets,
10 or electronic data storage devices. To prevent the destruction of electronic data,
11 upon service of this Order upon any Receivership Entity, any computers,
12 smartphones, tablets, or electronic data storage devices containing such
13 information shall be powered down (turned off) in the normal course for the
14 operating systems used on such devices and shall not be used until produced for
15 copying and inspection, along with any codes needed for access. For any
16 smartphone or tablet that contains information related to the business practices or
17 finances of the Receivership Entities that is in the personal possession of a
18 Stipulating Individual Defendant, the Receiver shall image that device and return it
19 to the Stipulating Individual Defendant within two business days.

20 **XXII. PARTIES' ACCESS TO BUSINESS PREMISES AND RECORDS**

21 **IT IS FURTHER ORDERED** that the Receiver shall allow the FTC, the
22 Stipulating Defendants, and their representatives reasonable access to the premises
23 of the Receivership Entities. The purpose of this access shall be to inspect,
24 inventory, and copy any Documents and other property owned by, or in the
25 possession of, the Receivership Entities, provided that those Documents and
26 property are not removed from the premises without the permission of the
27 Receiver. The Receiver shall have the discretion to determine the time, manner,
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1 and reasonable conditions of such access. The Receiver will segregate all
2 materials subject to an attorney-client privilege held by a Receivership Entity's
3 clients and shall not make these materials available to either the FTC or Stipulating
4 Defendants without the clients' consent. The FTC's access to any Documents
5 pursuant to this provision shall not provide grounds for any Defendant to object to
6 any subsequent request for Documents served by the FTC.

7 **XXIII. LIMITED EXPEDITED DISCOVERY**

8 **IT IS FURTHER ORDERED** that the Receiver and the FTC are granted
9 leave to conduct certain expedited discovery and that in lieu of the time periods,
10 notice provisions, and other requirements of the applicable Local Rules for this
11 District and Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, the
12 Receiver and the FTC are granted leave to:

13 A. Depose, on three (3) days' notice, any party or non-party for the
14 purpose of discovering: (1) the nature, location, status, and extent of Assets of
15 Stipulating Defendants or their affiliates or subsidiaries; (2) the nature and location
16 of Documents and business records of Stipulating Defendants or their affiliates or
17 subsidiaries; and (3) compliance with this Order. Any such depositions shall not
18 be counted toward any deposition limit set forth in the Federal Rules of Civil
19 Procedure or this Court's Local rules and shall not preclude the FTC from
20 subsequently deposing the same person during discovery on the merits in this case.
21 Depositions may be taken by telephone, video conference, or other remote means.
22 Any deposition taken pursuant to this Section that has not been reviewed and
23 signed by the deponent may be used by any party for purposes of any preliminary
24 injunction hearing;

25 B. Serve upon parties interrogatories or requests for production of
26 Documents or inspection that require a response, production or inspection within
27 four (4) days of service, and may serve subpoenas upon non-parties that direct
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1 production or inspection within seven (7) days of service, for the purpose of
2 discovering: (1) the nature, location, status, and extent of Assets of Stipulating
3 Defendants or their affiliates or subsidiaries; (2) the nature and location of
4 Documents and business records of Stipulating Defendants or their affiliates or
5 subsidiaries; and (3) compliance with this Order; provided, however, that forty-
6 eight (48) hours' notice shall be deemed sufficient for the production of any such
7 Documents that are maintained or stored as electronic data. Any such
8 interrogatories or requests for production or inspection shall not count toward any
9 limit on discovery set forth in the Federal Rules of Civil Procedure or this Court's
10 Local Rules;

11 C. For purposes of this Section, serve deposition notices and other
12 discovery requests upon the parties to this action personally or by facsimile, email,
13 certified or registered mail, or private courier (including a process server) with a
14 receipt from the courier showing delivery; and

15 D. Pursuant to Fed. R. Civ. P. 45, subpoena Documents immediately
16 from any Financial Institution, business entity, Electronic Data Host, or person
17 served with a copy of this Order that holds, controls, or maintains custody of any
18 account, Document, or Asset of, on behalf of, in the name of, for the benefit of,
19 subject to withdrawal by, subject to access or use by, or under the signatory power
20 of any Stipulating Defendant or other party subject to the Asset Freeze above, or
21 has held, controlled, or maintained any such account, Document, or Asset. The
22 recipient shall respond to such subpoena within three (3) business days after
23 service. The FTC may effect service by electronic mail.

24 **XXIV. BANKRUPTCY PETITIONS**

25 **IT IS FURTHER ORDERED** that, in light of the appointment of the
26 Receiver, the Receivership Entities are hereby prohibited from filing petitions for
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1 relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, without
2 prior permission from this Court.

3 **XXV. PRE-EXISTING ORDERS**

4 **IT IS FURTHER ORDERED** that nothing herein modifies any existing
5 Order in any way, including the Orders governing Damian Kutzner. *See FTC v.*
6 *GM Funding, Inc.*, SACV02-1026 DOC (C.D. Cal.), Stipulated Judgment and
7 Order for Permanent Injunction as to Defendants GM Funding, Inc., Robert D.
8 Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner (May 5, 2003);
9 *U.S. v. Global Mortgage Funding, Inc.*, SACV07-1275 DOC (C.D. Cal.),
10 Stipulated Judgment and Order for Permanent Injunction (July 17, 2009). The
11 FTC may take discovery and pursue any other measure any existing Order permits.

12 **XXVI. STAY OF ACTIONS**

13 **IT IS FURTHER ORDERED** that:

14 A. Except by leave of this Court, during the pendency of the
15 Receivership ordered herein, the Receivership Entities and all customers,
16 principals, investors, creditors, stockholders, lessors, and other persons seeking to
17 establish or enforce any claim, right, or interest against or on behalf of the
18 Receivership Entity, and all others acting for or on behalf of such persons,
19 including attorneys, trustees, agents, sheriffs, constables, marshals, and other
20 officers and their deputies, and their respective attorneys, servants, agents, and
21 employees be and are hereby stayed from:

22 1. Commencing, prosecuting, continuing, entering, or enforcing
23 any suit or proceeding, except that such actions may be filed to toll any applicable
24 statute of limitations;

25 2. Accelerating the due date of any obligation or claimed
26 obligation; filing or enforcing any lien; taking or attempting to take possession,
27 custody, or control of any Asset; attempting to foreclose, forfeit, alter, or terminate
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1 any interest in any Asset, whether such acts are part of a judicial proceeding, are
2 acts of self-help, or otherwise;

3 3. Executing, issuing, serving, or causing the execution, issuance
4 or service of, any legal process, including, but not limited to, attachments,
5 garnishments, subpoenas, writs of replevin, writs of execution, or any other form
6 of process, whether specified in this Order or not; or

7 4. Doing any act or thing whatsoever to interfere with the
8 Receiver's taking custody, control, possession, or management of Assets or
9 Documents subject to this receivership; or to harass or interfere with the Receiver
10 in any way; or to interfere in any manner with the exclusive jurisdiction of this
11 Court over the Assets or Documents of the Receivership Entities.

12 B. This Section does not stay:

13 1. The commencement or continuation of a criminal action or
14 proceeding;

15 2. The commencement or continuation of an action or proceeding
16 by a governmental unit to enforce such governmental unit's police or regulatory
17 power;

18 3. The enforcement of a judgment, other than a money judgment,
19 obtained in an action or proceeding by a governmental unit to enforce such
20 governmental unit's police or regulatory power, including but not limited to any
21 actions (including discovery) taken by the FTC in enforcing the Orders in the
22 related matters, *FTC v. GM Funding, Inc.*, SACV02-1026 DOC (C.D. Cal.), *U.S. v.*
23 *Global Mortgage Funding, Inc.*, SACV07-1275 DOC (C.D. Cal.); or

24 4. The issuance to the Receivership Entities of a notice of tax
25 deficiency.
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1 each of their agents, employees, directors, officers, subsidiaries, affiliates,
2 attorneys, independent contractors, representatives, franchisees, affiliates, and all
3 persons in active concert or participation with them. Within five (5) calendar days
4 following this Order, Stipulating Defendants shall provide the FTC with an
5 affidavit identifying the names, titles, addresses, and telephone numbers of the
6 persons that Stipulating Defendants have served with a copy of this Order in
7 compliance with this provision.

8 **XXXI. RETENTION OF JURISDICTION**

9 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of
10 this matter for all purposes of construction, modification, and enforcement of this
11 Order.

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13 **IT IS HEREBY ORDERED**

14 Dated: June 24, 2016



15 HONORABLE BEVERLY REID O'CONNELL
16 UNITED STATES DISTRICT COURT JUDGE
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