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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.

**Case No. SACV 16-00999-BRO  
(AFMx)**\_\_\_\_\_

**PRELIMINARY  
INJUNCTION AS TO  
GEOFFREY BRODERICK,  
BROOKSTONE LAW P.C.  
(CALIFORNIA), AND  
BROOKSTONE LAW  
(NEVADA), WITH ASSET  
FREEZE, APPOINTMENT  
OF RECEIVER, LIMITED  
EXPEDITED DISCOVERY,  
AND OTHER EQUITABLE  
RELIEF**

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.

27 At the hearing on June 15, 2016, defendants Geoffrey Broderick, Brookstone  
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1 Law P.C. (California), and Brookstone Law (Nevada) did not appear to show cause  
2 why a preliminary injunction should not issue against them.

3 Having considered the parties' pleadings, papers, and argument, the Court  
4 hereby **GRANTS** the Preliminary Injunction against defendants Geoffrey  
5 Broderick, Brookstone Law P.C. (California), and Brookstone Law (Nevada).

6 **FINDINGS OF FACT**

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

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

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

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

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

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

1           6.     There is good cause to believe that defendants Geoffrey Broderick,  
2 Brookstone Law P.C. (California), and Brookstone Law P.C. (Nevada), have  
3 engaged, and are likely to continue to engage, in acts or practices that violate  
4 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), including but not limited to falsely  
5 and misleadingly representing, directly or indirectly, expressly or by implication  
6 that:

- 7           a. Defendants are likely to obtain relief for consumers, including in  
8           some instances “at least \$75,000” or consumers’ homes free and  
9           clear;
- 10          b. Defendants will seek to void consumers’ mortgages;
- 11          c. Defendants have a team of experienced lawyers and personnel to  
12          litigate mass joinder cases alleging lender fraud and related claims  
13          on behalf of hundreds or thousands of clients simultaneously; and
- 14          d. Defendants will file lawsuits on particular consumers’ behalf.

15 The FTC is therefore likely to prevail on the merits of its action under Section 5(a)  
16 of the FTC Act, 15 U.S.C. § 45(a);

17           7.     There is good cause to believe that defendants Geoffrey Broderick,  
18 Brookstone Law P.C. (California), Brookstone Law P.C. (Nevada) have engaged  
19 and are likely to continue to engage in acts or practices that violate the MARS  
20 Rule, 12 C.F.R. Part 1015, including but not limited to:

- 21          a. Misrepresenting, expressly or by implication, material aspects of  
22          any mortgage assistance relief services, in violation of the MARS  
23          Rule; 12 C.F.R. § 1015.3(b);
- 24          b. Failing to make disclosures in all general and consumer-specific  
25          commercial communications as required by the MARS Rule; 12  
26          C.F.R. § 1015.4(a)-(c);

1 c. Asking for or receiving payment of any fee or other consideration  
2 before a consumer has executed a written agreement between the  
3 consumer and the consumer's loan holder or servicer incorporating  
4 the offer of mortgage assistance relief the provider obtained from  
5 the consumer's loan holder or servicer in violation of the MARS  
6 Rule; 12 C.F.R. § 1015.5(a);

7 The FTC is therefore likely to prevail on the merits of its action under the MARS  
8 Rule, 12 C.F.R. Part 1015;

9 8. There is good cause to believe that immediate and irreparable harm  
10 will result from defendant Geoffrey Broderick's, Brookstone Law P.C.  
11 (California)'s, and Brookstone Law P.C. (Nevada)'s ongoing violations of Section  
12 5(a) of the FTC Act and MARS Rule unless they are restrained and enjoined by  
13 Order of this Court;

14 9. There is good cause to believe that the Court's ability to grant  
15 effective final relief for consumers in the form of monetary restitution and  
16 disgorgement of ill-gotten gains will suffer immediate and irreparable damage  
17 from defendant Geoffrey Broderick's, Brookstone Law P.C. (California)'s, and  
18 Brookstone Law P.C. (Nevada)'s transfer, dissipation, or concealment of their  
19 Assets or business records unless they continue to be restrained and enjoined by  
20 Order of this Court;

21 10. Good cause exists to appoint a permanent Receiver for Brookstone  
22 Law P.C. (California) and Brookstone Law P.C. (Nevada);

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

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

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

5 **DEFINITIONS**

6 For the purposes of this Preliminary Injunction order, the following  
7 definitions apply:

8 A. **“Asset”** or **“Assets”** means any legal or equitable interest in, right to,  
9 or claim to, any and all real and personal property of Defendants, or held for the  
10 benefit of Defendants, wherever located, whether in the United States or abroad,  
11 including but not limited to chattel, goods, instruments, equipment, fixtures,  
12 general intangibles, effects, leaseholds, contracts, mail or other deliveries,  
13 inventory, checks, notes, accounts, credits, receivables (as those terms are defined  
14 in the Uniform Commercial Code), shares of stock, futures, all cash or currency,  
15 and trusts, including but not limited to a trust held for the benefit of any Defendant,  
16 any of the Individual Defendant’s minor children, or any of the Individual  
17 Defendants’ spouses, and shall include both existing Assets and Assets acquired  
18 after the date this order is signed, or any interest therein.

19 B. **“Asset Freeze Accounts”** includes accounts that are held by or for the  
20 benefit of the Individual Defendant or Corporate Defendants. Asset Freeze  
21 Accounts also includes the following accounts, identified by the account holder,  
22 the Financial Institution, and last four digits of the account number:

- 23 1. Brookstone Law P.C., JPMorgan Chase, 9552;  
24 2. Brookstone Law P.C., JPMorgan Chase, 8561;  
25 3. Brookstone Law P.C., JPMorgan Chase, 7928;  
26 4. Brookstone Law P.C., JPMorgan Chase, 8769;  
27 5. Brookstone Law P.C., JPMorgan Chase, 8819;

- 1           6. Brookstone Law P.C., JPMorgan Chase, 6317;
- 2           7. Brookstone Law P.C., JPMorgan Chase, 9052;
- 3           8. Brookstone Law P.C., Bank of America, 0081;
- 4           9. Brookstone Law P.C., Bank of America, 0097;
- 5           10. Brookstone Law P.C., Bank of America, 0098;
- 6           11. Brookstone Law P.C., Bank of America, 0099;
- 7           12. Brookstone Law P.C., Bank of America, 2747;
- 8           13. Brookstone Law P.C., Bank of America, 2748;
- 9           14. Brookstone Law P.C., Bank of America, 2909;
- 10          15. Brookstone Law P.C., Bank of America, 3466;
- 11          16. Brookstone Law P.C., Bank of America, 8722;
- 12          17. Brookstone Law P.C., Bank of America, 8735;
- 13          18. Brookstone Law P.C., Bank of America, 7366;
- 14          19. Brookstone Law P.C., CitiBank, No. unknown;
- 15          20. Geoffrey Broderick, JPMorgan Chase, 9253;
- 16          21. Geoffrey Broderick, JPMorgan Chase, 3571;
- 17          22. Geoffrey Broderick, JPMorgan Chase, 4891;
- 18          23. Geoffrey Broderick, JPMorgan Chase, 9914;
- 19          24. Geoffrey Broderick, JPMorgan Chase, 6319;
- 20          25. Geoffrey Broderick, JPMorgan Chase, 9209;

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

8       D.     **“Corporate Defendants”** means, collectively, Brookstone Law P.C.  
9 (California), Brookstone Law P.C. (Nevada), and their successors, assigns,  
10 affiliates, or subsidiaries, and each of them by whatever names each might be  
11 known.

12       E.     **“Defendants”** means the Individual Defendant, Corporate  
13 Defendants, and their successors, assigns, affiliates, subsidiaries, or agents,  
14 individually, collectively, or in any combination, and each of them by whatever  
15 names each might be known.

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

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

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

7 I. **“Individual Defendant”** means Geoffrey Broderick and any other  
8 names he might use, has used, been known by or have been known by.

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

13 1. stopping, preventing, or postponing any mortgage or deed of  
14 trust foreclosure sale for the consumer’s dwelling, any repossession of the  
15 consumer’s dwelling, or otherwise saving the consumer’s dwelling from  
16 foreclosure or repossession;

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

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

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

26 5. obtaining any waiver of an acceleration clause or balloon  
27 payment contained in any promissory note or contract secured by any dwelling; or  
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1           6. negotiating, obtaining, or arranging (i) a short sale of a  
2 dwelling, (ii) a deed-in-lieu of foreclosure, (iii) or any other disposition of a  
3 dwelling loan other than a sale to a third party that is not the dwelling loan holder.

4           The foregoing shall include any manner of claimed assistance, including, but  
5 not limited to, auditing or examining a consumer’s mortgage or home loan  
6 application and offering to provide or providing legal services, or offering to sell a  
7 consumer a plan or subscription to a service that provides such assistance.

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

10          L. **“Plaintiff”** means the Federal Trade Commission (“Commission” or  
11 “FTC”).

12          M. **“Receivership Entities”** means the Corporate Defendants.  
13 “Receivership Entities” includes businesses that lack formal legal structure (such  
14 as businesses operating under fictitious business names), but that otherwise satisfy  
15 the definition of “Receivership Entity.”

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

19                           **I. PROHIBITED REPRESENTATIONS**

20           **IT IS THEREFORE ORDERED** that Defendants, Defendants’ officers,  
21 agents, servants, employees, and attorneys, and all other persons in active concert  
22 or participation with any of them, who receive actual notice of this Order, whether  
23 acting directly or indirectly, in connection with the advertising, marketing,  
24 promotion, offering for sale, sale, or performance of any service or product, are  
25 restrained and enjoined from misrepresenting or assisting others in  
26 misrepresenting, expressly or by implication:  
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1 lender [or servicer]. If you reject the offer, you do not have to pay us. If you  
2 accept the offer, you will have to pay us [insert amount or method for calculating  
3 the amount] for our services,” as required by 12 C.F.R. § 1015.4(b)(1). For the  
4 purposes of this subsection, the amount “you will have to pay” shall consist of the  
5 total amount the consumer must pay to purchase, receive, and use all of the  
6 mortgage assistance relief services that are the subject of the sales offer, including  
7 but not limited to, all fees and charges.]

### 8 **III. MARS RULE ADVANCE FEE PROHIBITION**

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

### 19 **IV. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

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

3 **V. DISABLEMENT OF WEBSITES AND PRESERVATION OF**  
4 **ELECTRONICALLY STORED INFORMATION**

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

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

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

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

22 **IT IS FURTHER ORDERED** that any domain name registrar shall  
23 suspend the registration of any Internet website used by Defendants for the  
24 advertising, marketing, promotion, offering for sale, sale, or provision of services  
25 or products relating to consumers' mortgages or containing statements or  
26 representations prohibited by Section I of this Order and provide immediate notice  
27 to counsel for the FTC of any other Internet domain names registered by  
28 Defendants, Defendants' officers, agents, servants, employees, and attorneys, and

1 all other persons in active concert or participation with any of them who receive  
2 actual notice of this Order by personal service or otherwise.

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

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

19 **VIII. ASSET FREEZE**

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

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

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

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

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

19 D. Obtaining a personal or secured loan;

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

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

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

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

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

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

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

23 C. Deny access to any safe deposit boxes that are either titled in the name  
24 of, individually or jointly, or subject to access by, any Defendant or other party  
25 subject to the Asset Freeze above; and

26 D. Provide to counsel for the FTC, within one (1) business day of  
27 service, a sworn statement setting forth:  
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1           1.     the identification of each account or Asset titled in the name,  
2 individually or jointly, or held on behalf of or for the benefit of, subject to  
3 withdrawal by, subject to access or use by, or under the signatory power of any  
4 Defendant or other party subject to the Asset Freeze above;

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

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

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

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

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

23           **IT IS FURTHER ORDERED** that this Section shall apply to (a) all Assets  
24 as of the time the TRO was entered; and (b) for Assets obtained after the TRO was  
25 entered, those Assets that are derived, directly or indirectly, from the Defendants'  
26 activities as described in the Commission's Complaint, including the activities of  
27 any Receivership Entity. This Section does not prohibit transfers to the Receiver,  
28

1 as specifically required in the Section titled “Transfer of Funds to the Receiver by  
2 Financial Institutions and Other Third Parties,” nor does it prohibit the repatriation  
3 of foreign Assets, as specifically required in the Section titled “Repatriation of  
4 Foreign Assets” of this Order.

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

18 **X. FINANCIAL STATEMENTS AND ACCOUNTING**

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

23 A. For the Individual Defendant, a completed financial statement,  
24 accurate as of the date of service of this Order upon such Defendant, in the form of  
25 Attachment A to this Order captioned “Financial Statement of Individual  
26 Defendant.”  
27  
28

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

5 **XI. CREDIT REPORTS**

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

11 **XII. REPATRIATION OF FOREIGN ASSETS**

12 **IT IS FURTHER ORDERED** that, within one (1) day following entry of  
13 this Order on the docket, each Defendant shall:

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

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

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

25 C. Provide the FTC access to all records of accounts or Assets of the  
26 Defendants held by any Financial Institution or other person located outside the  
27 territorial United States by signing the Consent to Release of Financial Records  
28

1 attached to this Order as Attachment C and by signing any other Documents  
2 required by any person, including any Financial Institution, or other person holding  
3 any such Asset.

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

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

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

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

25 **XIV. RECORDKEEPING AND BUSINESS OPERATIONS**

26 **IT IS FURTHER ORDERED** that Defendants are hereby restrained and  
27 enjoined from:  
28

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

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

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

17 **XV. APPOINTMENT OF RECEIVER**

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

24 **XVI. COOPERATION WITH THE RECEIVER**

25 **IT IS FURTHER ORDERED** that Defendants shall fully cooperate with  
26 and assist the Receiver. Defendants’ cooperation and assistance shall include, but  
27 not be limited to, providing any information to the Receiver that the Receiver  
28

1 deems necessary to exercise the authority and discharge the responsibilities of the  
2 Receiver under this Order; providing any login, password, or biometric identifier  
3 required to access any computer or electronic files or information in or on any  
4 medium; and advising all persons who owe money to the Receivership Entities that  
5 all debts should be paid directly to the Receiver. Defendants are hereby restrained  
6 and enjoined from directly or indirectly:

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

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

26 **IT IS FURTHER ORDERED** that the Receiver is directed and authorized  
27 to accomplish the following:  
28

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

5           B. Take exclusive custody, control, and possession of all Assets and  
6 Documents of, or in the possession, custody, or under the control of, any  
7 Receivership Entity, wherever situated. The Receiver shall have full power to  
8 divert mail and to sue for, collect, receive, take possession of, hold, and manage all  
9 Assets and Documents of the Receivership Entities and other persons or entities  
10 whose interests are now held by or under the direction, possession, custody, or  
11 control of the Receivership Entities;

12           C. Take all steps necessary to secure the business premises of the  
13 Receivership Entities, which may include, but are not limited to, taking the  
14 following steps as the Receiver deems necessary or advisable: (1) serving and  
15 filing this Order; (2) completing a written inventory of all receivership Assets; (3)  
16 obtaining pertinent information from all employees and other agents of the  
17 Receivership Entities, including, but not limited to, the name, home address, Social  
18 Security number, job description, method of compensation, and all accrued and  
19 unpaid commissions and compensation of each such employee or agent; (4) video-  
20 recording and/or photographing all portions of the location at which any  
21 Receivership Entity conducts business or has Assets; (5) changing the locks and  
22 disconnecting any computer networks or other means of access to electronically  
23 stored information or other Documents maintained at that location; or (6) requiring  
24 any persons present on the premises at the time this Order is served to leave the  
25 premises, to provide the Receivers with proof of identification, and/or to  
26 demonstrate to the satisfaction of the Receiver that such persons are not removing  
27 from the premises Documents or Assets of the Receivership Entities. Such  
28

1 authority shall include, but not be limited to, the authority to order any owner,  
2 director, officer, employee, or agent of the Receivership Entities to leave the  
3 business premises;

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

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

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

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

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

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

26 J. Make payments and disbursements from the receivership estate that  
27 are necessary or advisable for carrying out the directions of, or exercising the  
28



1 authority granted by, this Order. The Receiver shall apply to the Court for prior  
2 approval of any payment of any debt or obligation incurred by the Receivership  
3 Entities prior to the date this Order is signed, except payments that the Receiver  
4 deems necessary or advisable to secure Assets of the Receivership Entities, such as  
5 rental payments;

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

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

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

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

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

23 P. Maintain accurate records of all receipts and expenditures made by the  
24 Receiver;

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

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

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

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

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

22 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order,  
23 any Financial Institution shall cooperate with all reasonable requests of counsel for  
24 the FTC and the Receiver relating to implementation of this Order, including  
25 transferring funds at the Receiver's direction and producing records related to the  
26 Assets and sales of the Receivership Entities.

**XIX. RECEIVER’S REPORTS**

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

14 **XX. COMPENSATION OF THE RECEIVER**

15 **IT IS FURTHER ORDERED** that the Receiver, and all persons or entities  
16 retained or hired by the Receiver as authorized under this Order, shall be entitled to  
17 reasonable compensation for the performance of duties undertaken pursuant to this  
18 Order and for the cost of actual out-of-pocket expenses incurred by them from the  
19 Assets now held by or in the possession or control of, or which may be received  
20 by, the Receivership Entities. The Receiver shall file with the Court and serve on  
21 the parties a request for the payment of reasonable compensation at the time of the  
22 filing of any report required by the “Receiver’s Reports” Section of this Order.  
23 The Receiver shall not increase the fees or rates used as the bases for such fee  
24 applications without prior approval of the Court.

25 **XXI. RECEIVER’S ACCESS TO BUSINESS PREMISES AND RECORDS**

26 **IT IS FURTHER ORDERED** that:

27 A. The Receiver, and his representatives, agents, and assistants, shall  
28 have immediate access to all business premises and storage facilities, owned,

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

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

15 C. Receivership Entities and all employees or agents of Receivership  
16 Entities shall provide the Receiver with any necessary means of access to  
17 Documents and records, including, without limitation, the locations of the  
18 Receivership Entities' business premises, keys and combinations to locks,  
19 computer access codes, and storage area access information;

20 D. If the Individual Defendant possesses a smartphone or tablet on  
21 receivership premises, they will turn over the device to the Receiver for imaging.  
22 Within two business days, the Receiver will return the device; and

23 E. If any Documents, computers, smartphones, tablets, or electronic data  
24 storage devices containing information related to the business practices or finances  
25 of the Receivership Entities are at a location other than those listed herein,  
26 including but not limited to, the personal residence(s) of the Defendants, then,  
27 immediately upon notice of this Order, Defendants shall produce to the Receiver  
28

1 all such Documents, computers, smartphones, tablets, or electronic data storage  
2 devices. To prevent the destruction of electronic data, upon service of this Order  
3 upon any Receivership Entity, any computers, smartphones, tablets, or electronic  
4 data storage devices containing such information shall be powered down (turned  
5 off) in the normal course for the operating systems used on such devices and shall  
6 not be used until produced for copying and inspection, along with any codes  
7 needed for access. For any smartphone or tablet that contains information related  
8 to the business practices or finances of the Receivership Entities that is in the  
9 personal possession of the Individual Defendant, the Receiver shall image that  
10 device and return it to the Individual Defendant within two business days.

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

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

25 **XXIII. LIMITED EXPEDITED DISCOVERY**

26 **IT IS FURTHER ORDERED** that the Receiver and the FTC are granted  
27 leave to conduct certain expedited discovery and that in lieu of the time periods,  
28

1 notice provisions, and other requirements of the applicable Local Rules for this  
2 District and Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, the  
3 Receiver and the FTC are granted leave to:

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

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

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

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

#### 14 **XXIV. BANKRUPTCY PETITIONS**

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

#### 19 **XXV. PRE-EXISTING ORDERS**

20 **IT IS FURTHER ORDERED** that nothing herein modifies any existing  
21 Order in any way, including the TRO issued in this matter as to Damian Kutzner,  
22 Vito Torchia, Jr., Jonathan Tarkowski, Charles Marshall, Advantis Law Group  
23 P.C., Advantis Law P.C., as well as any Orders governing Damian Kutzner. *See*  
24 *FTC v. GM Funding, Inc.*, SACV02-1026 DOC (C.D. Cal.), Stipulated Judgment  
25 and Order for Permanent Injunction as to Defendants GM Funding, Inc., Robert D.  
26 Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner (May 5, 2003);  
27 *U.S. v. Global Mortgage Funding, Inc.*, SACV07-1275 DOC (C.D. Cal.),  
28

1 Stipulated Judgment and Order for Permanent Injunction (July 17, 2009). The  
2 FTC may take discovery and pursue any other measure any existing Order permits.

3 **XXVI. STAY OF ACTIONS**

4 **IT IS FURTHER ORDERED** that:

5 A. Except by leave of this Court, during the pendency of the  
6 Receivership ordered herein, the Receivership Entities and all customers,  
7 principals, investors, creditors, stockholders, lessors, and other persons seeking to  
8 establish or enforce any claim, right, or interest against or on behalf of the  
9 Receivership Entity, and all others acting for or on behalf of such persons,  
10 including attorneys, trustees, agents, sheriffs, constables, marshals, and other  
11 officers and their deputies, and their respective attorneys, servants, agents, and  
12 employees be and are hereby stayed from:

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

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

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

25 4. Doing any act or thing whatsoever to interfere with the  
26 Receiver's taking custody, control, possession, or management of Assets or  
27 Documents subject to this receivership; or to harass or interfere with the Receiver  
28



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.

3 B. This Section does not stay:

4 1. The commencement or continuation of a criminal action or  
5 proceeding;

6 2. The commencement or continuation of an action or proceeding  
7 by a governmental unit to enforce such governmental unit's police or regulatory  
8 power;

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

15 4. The issuance to the Receivership Entities of a notice of tax  
16 deficiency.

17 **XXVII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY**  
18 **DEFENDANTS**

19 **IT IS FURTHER ORDERED** that each Defendant, within three (3)  
20 business days of receipt of this Order, must submit to counsel for the FTC a  
21 truthful sworn statement acknowledging receipt of this Order.

22 **XXVIII. CORRESPONDENCE WITH PLAINTIFF**

23 **IT IS FURTHER ORDERED** that, for the purposes of this Order, because  
24 mail addressed to the FTC is subject to delay due to heightened security screening,  
25 all correspondence and service of pleadings on Plaintiff shall be sent via electronic  
26 submission and Federal Express to:

27 //

1 Benjamin Theisman  
2 Gregory Madden  
3 Federal Trade Commission  
4 600 Pennsylvania Ave., NW, Mail Drop CC-9528  
5 Washington, DC 20580  
6 Telephone: (202) 326-2223, -2426  
7 btheisman@ftc.gov, gmadden@ftc.gov

8 **XXIX. SERVICE OF THIS ORDER**

9 **IT IS FURTHER ORDERED** that copies of this Order may be served by  
10 facsimile, email, hand-delivery, personal or overnight delivery, or U.S. Mail, by  
11 agents and employees of the FTC or any state or federal law enforcement agency  
12 or by private process server, upon any Financial Institution or other entity or  
13 person that may have possession, custody, or control of any Documents or Assets  
14 of any Defendant, or that may otherwise be subject to any provision of this Order.  
15 Service upon any branch or office of any Financial Institution shall effect service  
16 upon the entire Financial Institution.

17 **XXX. DISTRIBUTION OF ORDER**

18 **IT IS FURTHER ORDERED** that within three (3) calendar days after  
19 service of this Order, Defendants shall provide a copy of this Order to each of their  
20 agents, employees, directors, officers, subsidiaries, affiliates, attorneys,  
21 independent contractors, representatives, franchisees, affiliates, and all persons in  
22 active concert or participation with them. Within five (5) calendar days following  
23 this Order, Defendants shall provide the FTC with an affidavit identifying the  
24 names, titles, addresses, and telephone numbers of the persons that Defendants  
25 have served with a copy of this Order in compliance with this provision.

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**XXXI. RETENTION OF JURISDICTION**

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

IT IS SO ORDERED.

DATED: June 27, 2016



HON. BEVERLY REID O'CONNELL  
United States District Judge

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