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Attorneys for Receiver

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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 DAMIAN KUTZNER, et al.,

19 Defendants.
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Case No. LACV16-00999 BRO (AFMx)

**SUPPLEMENTAL REPORT OF
RECEIVER**

JUDGE: Hon. Beverly Reid O'Connell
CTRM: 14

SUPPLEMENTAL REPORT OF RECEIVER

The Court-appointed receiver, Thomas W. McNamara (the “Receiver”), submits this Supplemental Report to advise the Court and the parties of the status of the receivership. In particular, we outline our efforts to notify, communicate with and protect the Brookstone/Advantis clients. We also report on the financial status of the receivership and the related issues of returning the leased premises of Receivership Entities and taking steps to secure the hard copy and electronic materials.

1. Efforts to Notify and Protect Consumers

We have taken the following steps to provide notice of the receivership to the courts and the plaintiffs in active mass joinder cases:

- As directed by the TRO (Section XV(S), ECF No. 23), sent notices to the courts in the eight active mass joinder cases which were being conducted by a lawyer working for Brookstone/Advantis.¹ That notice informed the courts and the parties that Brookstone/Advantis have been placed in receivership and will be withdrawing as counsel from the cases, and requested the courts stay all proceedings for at least ninety (90) days to permit clients to obtain replacement counsel.
- Sent notice to all plaintiffs in the eight active mass joinder cases via email (or by U.S. Mail to those without email addresses) advising them of the receivership, confirming that Brookstone/Advantis will

¹ *Aslami, et al. v. National Default Servicing Corp., et al.*, Orange County Superior Court, Case No. 30-2016-00844390-CU-OR-CJC; *Curtis, et al. v. MTC Financial, et al.*, Orange County Superior Court, Case No. 30-2016-00841019-CU-OR-CJC; *Lawley, et al. v. Bank of America, et al.*, San Diego County Superior Court, Case No. 37-2016-00011715-CU-OR-CTL; *Lee v. JP Morgan Chase Bank, et al.*, U.S. District Court, Northern District of California, Case No. 5:15-cv-05215-RMW; *Randall, et al. v. Citigroup Inc., et al.*, Los Angeles County Superior Court, Case No. 526888; *Salgado, et al. v. Western Progressive LLC, et al.*, Orange County Superior Court, Case No. 30-2016-00854281-CU-OR-CJC; *Wasinack, et al. v. Quality Loan Service Corp., et al.*, Riverside County Superior Court, Case No. RIC1601230; *Wright, et al. v. Bank of America, et al.*, Orange County Superior Court, Case No. 30-2011-00449059-CU-MT-CXC.

1 be withdrawing as counsel, explaining that we requested a 90-day
 2 continuance in the cases to permit clients to obtain a replacement
 3 lawyer or to appear on their own behalf. The communications
 4 stressed the need to secure replacement counsel or take steps to
 5 represent themselves. We included a link to the receiver's website
 6 for additional background information and details.

- 7 • Dispatched similar notice to the plaintiffs in the two mass joinder
 8 cases which have been dismissed without prejudice, but not refiled.²
- 9 • Established website pages dedicated to this case, see
 10 [http://regulatoryresolutions.com/case/federal-trade-commission-v-](http://regulatoryresolutions.com/case/federal-trade-commission-v-kutzner-et-al/)
 11 [kutzner-et-al/](http://regulatoryresolutions.com/case/federal-trade-commission-v-kutzner-et-al/). The pages provide the following: background and
 12 reference information for Brookstone/Advantis clients; updates on the
 13 status of the FTC case; a detailed Frequently Asked Questions section
 14 (based on questions coming into the Receiver's office and website)
 15 which contain links to the underlying court websites for each of the
 16 eight cases; links to the operative complaints in the eight active cases
 17 in order that plaintiffs have a point of reference.
- 18 • Responded to dozens of Brookstone/Advantis clients who submitted
 19 inquiries to the Receiver's office or website.

20 2. Receivership Finances

21 As we described in our Preliminary Report filed June 13, 2016 (ECF No.
 22 41), we identified very little in receivership estate assets. At the time of that
 23 report, the amount identified was \$68,581 in the business Asset Freeze Accounts.
 24 Last week, we learned that \$20,000 in cash was removed from Brookstone's bank
 25 account on June 3, after Mr. Kutzner had been given a copy of the TRO and was

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 27 ² *Montes, et al. v. Wells Fargo Bank, N.A., et al.*, Los Angeles County
 28 Superior Court, Case No. BC566821; and *Bradford, et al. v. Bank of America, N.A., et al.*, U.S. District Court for the Central District of California, Case No. LA15CV-05201-GHK-JC.

1 aware of the asset freeze. We notified Mr. Kutzner's counsel and he was able to
2 very quickly arrange for the cash to be returned. We see no evidence of additional
3 assets.³ Unfortunately, the frozen funds will not cover the expenses incurred by
4 the receivership to date and we anticipate there will be a substantial deficit to bring
5 the receivership to a conclusion.

6 3. Return of Business Premises to Landlord

7 As set forth in the Preliminary Report, the Receiver's team took possession
8 of the offices of Receivership Entities at 6 Hutton Centre Drive, Suite 1000, Santa
9 Ana on June 2, 2016. The 7,000 square foot space is subject to a sublease dated
10 October 5, 2015 between Defendant Advantis Law Group P.C. and the master
11 tenant, American States Utility. We have been in regular contact with counsel for
12 the master tenant.

13 With the entry of Preliminary Injunctions as to all parties, the Receiver's
14 appointment was confirmed. As such, the Receiver must commence the process of
15 vacating the premises and returning possession to the master tenant.

16 The process is challenging here because the receivership has minimal assets
17 and hence no ability to fund the costs of removing and storing of hard copy records
18 and the removal, labeling and storing of the hard drives from on-site computers.

19 We have reached an arrangement with the FTC which will reduce the
20 expense of those tasks, while preserving the necessary chain of custody. The FTC
21 has established protocols by which the boxes of paper records and boxes of hard
22 drives will be picked up from the Santa Ana site by the FTC (via a subcontractor)
23 and will be stored at an FTC facility with controlled and limited access. These
24 records will remain in the possession of the FTC, and will not be reviewed in any
25 manner, until there are further instructions by the Court. Given the large quantity
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27 ³ Jeremy Foti was added as a defendant in the FTC's First Amended
28 Complaint. It is possible that some of the corporate entities he was using to pay
himself will hold receivership assets, but it is too soon to tell.

1 of paper records (approximately 100 boxes) and computers with hard drives to be
2 removed (approximately 71), the cost of this operation, and the future storage, to
3 the receivership would be substantial and economically impossible given the
4 amount of Receivership assets.

5 We will commence the move out process as soon as practical. The
6 components of that process are as follows:

7 1. Leased Equipment. All leased equipment, primarily plants and a
8 vending machine and perhaps a large copier, will be returned to the vendors.

9 2. Personal Property. We have provided access to Defendant Damian
10 Kutzner and his counsel to review materials in the office and identify and remove
11 Defendant Kutzner's personal belongings from the office. We offered access to
12 Defendant Foti through counsel, but learned he was out of town. We will make
13 arrangements for reasonable access for Defendant Foti at a later time. All other
14 Defendants, tenants and/or employees have already removed their belongings.

15 3. Furniture and Big Screen TVs. We will liquidate all onsite furniture
16 owned by Receivership Entities, including seven big screen TVs. Nearly all of the
17 furniture onsite is the property of the master tenant, so this component of the move-
18 out is not material. In any event, the current market for used furniture is extremely
19 limited and, in our experience, rarely brings any net return after accounting for time
20 and costs.

21 4. Computer Hard Drives. We identified 71 computers onsite. Two are
22 servers which house the ILS database, which we will relocate to our office in San
23 Diego, as the database is necessary to communicate with consumers. As to the
24 other computers, the hard drives will be removed by a computer forensics expert
25 arranged by the FTC and then stored pursuant to the procedures identified above.
26 The CPU boxes, sans hard drives, will be disposed of on the best terms available,
27 probably to a recycler.

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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2016, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

I further certify that I have caused the foregoing to be emailed to the following non-CM/ECF participants:

Via Email
Vito Torchia Jr.
torchialaw@gmail.com
vjtorch@gmail.com

*In his personal capacity and as an
officer of Brookstone Law PC
(California), Brookstone Law PC
(Nevada)*

Via Email
R. Geoffrey Broderick
geoffreysocal@gmail.com

*In his personal capacity and as an
officer of Advantis Law PC and
Advantis Law Group PC*

S/ Andrew W. Robertson
Andrew W. Robertson