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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

THOMAS W. MCNAMARA, as the Court-Appointed Receiver for True Count Staffing Inc., d/b/a SL Account Management; Prime Consulting LLC, d/b/a Financial Preparation Services; TAS 2019 LLC d/b/a Trusted Account Services; First Priority LLC; and Horizon Consultants LLC, and their successors, assigns, affiliates, or subsidiaries,

Plaintiff,

v.

NATIONAL MERCHANT CENTER, INC., a California corporation; SHIH-HAO LAI aka JIMMY LAI, an individual; SWIFT PAYMENTS, a California corporation; DOES 1-10; and ROES 1-10,

Defendants.

Case No. 8:21-cv-01122-MWF (KSx)

RECEIVER'S FIRST AMENDED COMPLAINT FOR:
(1) CIVIL CONSPIRACY;
(2) AIDING AND ABETTING FRAUD;
(3) AIDING AND ABETTING BREACH OF FIDUCIARY DUTY;
(4) VIOLATION OF CALIFORNIA PENAL CODE § 496;
(5) VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200; AND
(6) REQUEST FOR AN ACCOUNTING

JURY TRIAL DEMAND

Related Case:
Bureau of Consumer Financial Protection, et al. v. Consumer Advocacy Center, Inc. d/b/a Premier Student Loan Center, et al.
Central District of California
Case No. 8:19-cv-01998-MWF (KSx)

Plaintiff, Thomas W. McNamara ("Plaintiff" or "Receiver"), in his capacity as the Court-appointed receiver in the case of *Bureau of Consumer Financial Protection, et al. v. Consumer Advocacy Center Inc., et al.* ("*CFPB v. CAC*"), Case No. SACV 19-1998-MWF (KSx) (C.D. Cal.), hereby brings the following First Amended Complaint against National Merchant Center, Inc. ("NMC"), Shih-Hao Lai aka Jimmy Lai ("Lai"), Swift Payments, and certain Doe and Roe Defendants, and alleges the following:

OVERVIEW

1. In 2019, the CFPB sued a host of interrelated student loan debt relief companies that were preying on vulnerable consumers who were struggling to make their monthly student loan payments. These companies profited at consumers' expense by convincing their customers to pay them hundreds of dollars to perform a service – the completion and submission of modified student loan repayment plans to federal student loan servicers – that the consumers could do themselves, for free, in under an hour. To sell consumers on their services, the companies insinuated they were affiliated with the Department of Education, secured impossibly low repayment rates for their customers by falsifying the applications they submitted on the consumers' behalf to their loan servicers, and then misled consumers into believing that the payments they were making to the companies were actually going towards their student loans. By the time many consumers realized that they'd been duped, their loans had stood stagnant for months or even years, with principal balances that were higher than when consumers had first contacted the companies as a result of the accrual of unpaid interest.

2. Defendant NMC played a pivotal role in the companies' student loan debt relief scam. During the relevant time period, it secured payment processing services on the companies' behalf in its capacity as an Independent Sales Organization ("ISO"). Defendant Jimmy Lai and his company, Defendant Swift

Payments (collectively, the "Lai Defendants"), were NMC's primary point of contact with the student loan debt relief companies. They acted on NMC's behalf (sometimes as an internal officer and other times as an external sales agent) to secure the companies as customers for NMC, and then interfaced with them for NMC.

3. The payment processing services that NMC and the Lai Defendants (collectively, "Defendants") helped the student loan debt relief companies access were critical to the success of their fraud. In its role as the companies' primary ISO, NMC provided them with the all-important ability to process consumer payments through credit card networks such as Visa or Mastercard – the lifeblood of the fraudulent enterprise.

4. Defendants were more than just passive witnesses to the fraud. They worked shoulder-to-shoulder with the principals of the enterprise to complete fraudulent merchant account applications, which often used strawmen "company owners," and to secure merchant account services for the student loan debt relief companies that otherwise would've been flagged and denied by banks, regulators and/or any scrupulous payment processor. As a result of their close relationship with the companies, Defendants had actual knowledge both of the fraud and of the ways in which the companies' principals were breaching their fiduciary duties to the companies.

5. An intimate relationship between individuals in NMC's underwriting department, including Lai, and the fraudulent student loan debt relief companies and their principals, enabled Defendants to work around the companies' obvious fraudulent practices and the host of red flags they generated. NMC consistently approved new merchant account applications for the student loan debt relief companies, even as they were forced to jump from one company or dba to another in a desperate effort to escape regulators and a constant onslaught of consumer

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complaints. In return for aiding and abetting the fraud, Defendants were richly rewarded for their participation in the scheme, pocketing millions of dollars.

6. Soon after the student loan debt relief companies and their principals were sued by the CFPB in October 2019, the Court ordered a freeze of all of the assets belonging to the student loan debt relief companies and their principals and appointed Plaintiff as the Receiver for the companies that were part of the fraudulent enterprise.

7. The CFPB's drastic intervention – and the Court's appointment of a receiver at the CFPB's request – should, in theory, have stopped both the student loan debt relief companies and Defendants from harming consumers. It did not. As detailed below, Defendants engaged in a stunning pattern of misconduct even after the Receiver's appointment. Among other things, NMC made false representations to the Receiver and the Court, including in sworn declarations, about the amount of money NMC had received from the fraud. NMC also transferred $1,000,000 from a Receivership Entity's reserve account into its own coffers after the asset freeze was entered. The Receiver was ultimately able to recover those funds with NMC's reluctant cooperation, but the unauthorized transfer of those funds confirms the lengths to which NMC has been willing to go.

8. In similar fashion, the Lai Defendants continued to attempt to aid and abet the fraudulent enterprise even after the CFPB sued. Jimmy Lai submitted a patently false declaration to the Court (under penalty of perjury) in which Lai swore that one of the underlying student loan debt relief participants was a separate and legitimate escrow company, when in fact – as Lai well knew – it was owned and controlled by the principals of the fraudulent student debt relief companies. Lai withdrew the false declaration in its entirety only under threat of imminent deposition.

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9. As described further herein, Defendants remain liable for tens of millions in harm that they have caused to the student loan debt relief businesses which they aided and abetted, and from which they handsomely profited.

PARTIES

10. Plaintiff was appointed Receiver in the case of *CFPB v. CAC* first by entry of a Temporary Restraining Order on October 21, 2019 (ECF No. 24[1]) and then by entry of a Stipulated Preliminary Injunction entered on November 15, 2019 (the "Preliminary Injunction" or "PI") (ECF No. 103). The Preliminary Injunction directs the Receiver to preserve the value of the assets in the Receivership Estate and authorizes the Receiver to institute actions to preserve or recover those assets. *See* PI §§ XV.D, XV.M.

11. Defendant NMC is a California corporation with its principal place of business at 2955 E. Main St., Suite 100, Irvine, California 92614.

12. Defendant Shih-Hao Lai aka Jimmy Lai is an individual who resides in Santa Ana, California. During the relevant time period, Lai served as an authorized agent of NMC and, at various times, as NMC's Director of Risk and Underwriting.

13. Defendant Swift Payments is a California corporation with its principal place of business at 18261 Alexandra Place, North Tustin, California 92705. Lai is the principal and sole owner of Swift Payments.

14. The true names or capacities, whether individual, corporate, associate, or otherwise, of defendants herein designated as DOE 1 through DOE 10 and ROE CORPORATION 1 through ROE CORPORATION 10 are unknown to the Receiver, who therefore sues said defendants by such fictitious names. The Receiver believes and thereon alleges that other defendants named as DOE and ROE CORPORATION defendants are responsible in some manner for the acts

[1] All ECF numbers cited herein are references to the docket in *CFPB v. CAC*.

complained of herein and described more fully *infra*. The Receiver will seek to amend this First Amended Complaint to allege their true names and capacities as they are ascertained in this action.

15. The Receiver is informed and believes, and on that basis alleges, that Defendants (both named and sued as DOES or ROES) acted at all times mentioned herein as the actual and/or ostensible agents or representatives of each other and, in doing the activities alleged herein, acted within the scope of their authority as agents and representatives and with the permission and consent of each other. In undertaking the acts alleged herein, each defendant was acting in concert with the other defendants and as each other's alter egos.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this matter under 28 U.S.C. § 1345, 28 U.S.C. § 1367(a), and the doctrines of supplemental and ancillary jurisdiction. *See Donell v. Kowell*, 533 F.3d 762, 769 (9th Cir. 2008) (permitting receiver "to bring suits under state law in federal court under ancillary jurisdiction…"); *S.E.C. v. Bilzerian*, 378 F.3d 1100, 1107 (D.C. Cir. 2004) ("[T]he receiver's complaint was brought to accomplish the objectives of the Receivership Order and was thus ancillary to the court's exclusive jurisdiction over the receivership estate.").

17. Venue in the Central District of California is proper pursuant to 28 U.S.C. § 1391, because the Court retained jurisdiction of this matter for all purposes in the Preliminary Injunction entered on November 15, 2019 (*see* PI § XXXIII), and because this proceeding is supplemental to *CFPB v. CAC*. *See Haile v. Henderson Nat'l Bank*, 657 F.2d 816, 822 n.6 (6th Cir. 1981) ("[W]here jurisdiction is ancillary, the post-jurisdictional consideration of venue is ancillary as well.").

18. The Court may exercise personal jurisdiction over Defendants pursuant to 28 U.S.C. § 1692 because the funds sought to be recovered are assets of the Receivership Estate under the Court's Orders issued in *CFPB v. CAC*.

ALLEGATIONS

The SLAM Companies' Fraudulent Student Loan Debt Relief Scheme

19. As Defendants were well aware, Albert Kim ("Kim"), Kaine Wen ("Wen"), and Tuong Nguyen ("Nguyen") (collectively, the "SLAM Owners") ran a successful but fraudulent student loan debt relief scam that deprived hundreds of thousands of consumers of tens of millions of dollars.

20. As Defendants also knew, to run that scam, the SLAM Owners utilized a number of companies as a common enterprise: True Count Staffing Inc., d/b/a SL Account Management ("True Count"), Prime Consulting LLC, d/b/a Financial Preparation Services ("Prime Consulting"), TAS 2019 LLC d/b/a Trusted Account Services ("TAS"), First Priority LLC d/b/a Priority Account Management ("First Priority") and Horizon Consultants LLC ("Horizon") (collectively the "SLAM Companies," and with the SLAM Owners, collectively the "SLAM Parties").

21. As Defendants further knew, the SLAM Owners put another one of their companies, Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center ("CAC"), into a bogus bankruptcy to avoid regulatory inquiries before the CFPB's lawsuit was filed. As a result of the bankruptcy filing, when the CFPB sued the SLAM Companies and CAC in 2019, only the SLAM Companies became Receivership Entities.

22. The SLAM Owners ran their student loan debt "relief" business from roughly 2015 to 2019, when the CFPB's suit forced them to close their doors. Soon after the suit was filed, the Receiver was appointed and began his investigation of the SLAM Owners' business. The Receiver quickly confirmed that the worst of the allegations in the CFPB's complaint were true: the SLAM Owners were running a fraudulent business that made enormous profits at the expense of the most vulnerable consumers.

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23. Student loan debt relief businesses like the SLAM Companies are difficult to operate in a manner compliant with federal law. Their customer base consists of desperate, cash-strapped consumers who are willing to do almost anything to reduce their monthly student loan payments – including paying a student loan debt relief company more than *$1,200* (a routine fee in this case) to fill out paperwork that, per the Federal Student Aid website, "[m]ost people [can] complete…in 10 minutes or less."[2] The companies, of course, never disclose that fact to their customers.

24. In exchange for consumers' money, the student loan debt relief companies promise to reduce the consumers' monthly student loan payments. Often the only way they can get the monthly payment down to a number the consumer can live with is by falsifying information on the consumer's application. For the SLAM Companies, most often that meant falsifying the consumer's "family size," which is the number of children and other dependents (individuals who "receive more than half of their support" from the borrower) living with the borrower.[3]

25. In the fall of 2019, the *Wall Street Journal* published an article titled "Soaring Student Debt Opens Door to Relief Scams." *See* ECF No. 75-1 at Ex. 6. The article, which was included with the Receiver's Preliminary Report (attached hereto as Exhibit 1), shone a spotlight on the industry as a whole, but more specifically Financial Preparation Services (the d/b/a for Prime Consulting), one of the SLAM Companies.

26. Included in the piece was a profile of one of Prime Consulting's borrowers, Stephanie Beger, "a former teacher turned paralegal," whom Prime Consulting "promised to help reduce payments on her $109,000 of student loans."

[2] https://studentaid.gov/app/ibrInstructions.action.

[3] https://studentaid.gov/app/demoIdrNewApplication.action#!/idrDemo/1.

Ms. Beger "'told them [Prime Consulting] I was married, and we have two incomes and no children.'" Roughly six months later, after contacting her servicer, she learned that – at least according to Prime Consulting – she was actually a single mother of six, which was how the company had described her in the documents it had submitted to the government on her behalf.

27. Ms. Beger was not an anomaly. As the WSJ reported, "[s]alespeople at [Prime Consulting d/b/a] Financial Preparation Services…often submitted claims showing a family size of six or seven to qualify callers for debt relief, without the borrower's knowledge."

28. While the SLAM Companies' unlawful practices might have resulted in some short-term relief for consumers, the ultimate consequences to their customers were dire. As just one example, the WSJ article included a reference to a borrower "who described himself as a 'war veteran who just wanted to go to college to pursue happiness'" – but who, as a result of his dealings with one of the SLAM Companies, had his tax returns and wages garnished and lost his truck. He received no benefit from dealing with the SLAM Companies because, in his own words, "'not 1 single cent of my debt has been diminished.'"

29. Consumers' student loans often increased after they signed up for the SLAM Companies' services, because they confused the monthly fees they agreed to pay to the SLAM Companies with their monthly payments to their loan servicer. As a result, they ceased making payments to their servicer, causing their loan balance to go up as interest accrued on the unpaid principal. That much is evident from the consumer complaints reviewed by the Receiver, some of which are particularly poignant:

> If I'm paying $40/month, WHY has my student loan increased from $52k to $54k? . . . Instead of paying $52k to Nelnet, at the end of 240 payments, I will pay a total of $10,555 to Premier Student Loans? Will the balance be expunged from my financial obligation?
>
> ***

> If I am going through this organization for my student loans, and if you are charging me $42.00 per month, I have two questions that are confusing me?
>
> 1. My loan amount has increased by $5,000 since I turned my information over to you.
>
> 2. Fed Loan just sent me an email saying they are going to deduct $131 from my account each month starting November. Can someone please explain all of this to me, and why did my amount increase?
>
> ***
>
> Who is this payment going to? I just logged into my FEdloan Servicing Account, and none of my $40 monthly payments are showed as posting to my actual student loans. I am wondering who I am paying?
>
> ***
>
> Is Navient aware that I am paying my student loans through this company now?
>
> *See* ECF No. 75-1 at Ex. 47.

30. When consumers would realize that whatever "assistance" the SLAM Companies had provided to them had actually been to their detriment, they would cancel their agreements with the companies. Although the SLAM Companies secured more than 170,000 customers overall, the Receiver's investigation revealed that a whopping *71%* cancelled their enrollments.

31. High consumer dissatisfaction meant that the SLAM Companies had to resort to a number of underhanded tactics to keep the business afloat. Such tactics included using coercive and misleading sales tactics to convince consumers to sign up (including, for example, insinuating that the SLAM Companies were affiliated with the Department of Education, or DOE); regularly changing entities and/or d/b/a names in order to avoid regulatory and consumer scrutiny; and securing too-good-to-be-true monthly payments by manipulating consumer applications, often by increasing the "family size" number as discussed above.

32. As the high cancellation rate suggests, many consumers would ultimately come to understand they'd been duped by the SLAM Companies. Some

of the companies' misconduct, however, would be less apparent to consumers—including, most notably, the SLAM Companies' ongoing and constant violation of the Telemarketing Sales Rule.

33. The Telemarketing Sales Rule (16 C.F.R. § 310, "TSR") expressly prohibits the collection of advance fees for any debt relief service. *See* 16 C.F.R. § 310.4(a)(5). The full text is complex, but at its core, it prohibits requesting or receiving payment of any fee unless and until (A) the telemarketer has settled at least one debt pursuant to an agreement executed by the customer, and (B) the customer has made at least one payment pursuant to that agreement.

34. For the SLAM Companies' purposes, that meant that a consumer's application for an income-based repayment plan (submitted by the companies on the consumer's behalf) had to be accepted by the consumer's loan servicer, *and* the consumer would need to make at least one payment under the new plan before the SLAM Companies could charge the consumer for their services.

35. Despite the fact that the SLAM Companies' service agreements expressly acknowledged that approval of a debt relief application "can take 30-90 days to complete," they nonetheless immediately violated the TSR by acquiring customer payment information in the initial sales calls and then beginning to charge their customers on a monthly basis. From the SLAM Companies' inception to their ignominious end, consumer payments were always illegally collected long before any work was completed, let alone before a customer had made a first payment on a new student debt relief plan.

36. The TSR contains a narrow "escrow exception," which permits the collection of advance fees if the funds are placed in a dedicated escrow-type account that meets five specific requirements, namely: (1) the account is at an insured financial institution; (2) the customer owns those funds and is paid accrued interest; (3) the account holder is not owned or controlled by the debt relief servicer; (4) the account holder does not give or accept any referral fees; and (5)

the customer may withdraw from the debt relief service at any time without penalty and, upon withdrawal, must receive all funds in the account, except for compliant advance fees, within seven days of the withdrawal request. *See* CFR § 310.4(a)(5).

37. During their four years in operation and with Defendants' knowledge, consent, and active support, the SLAM Companies never had proper escrow or trust procedures in place that could lawfully qualify for the TSR's "escrow exception," despite expressly representing otherwise to consumers in at least some iterations of their customer agreements.

38. At no point during the entire duration of the SLAM Companies' fraudulent enterprise did they ever legitimately comply with the escrow exception – although, as discussed further below, the SLAM Companies, with Defendants' knowledge and assistance, went as far to set up a fake "third party" escrow company (which still failed to qualify for the exception, as it was entirely controlled by the SLAM Owners and was not independent in any way, shape, or form) in a last-ditch effort to avoid regulators shutting down the business.

39. By taking advantage of vulnerable consumers and operating outside the bounds of the law, the SLAM Parties were able to run an extremely lucrative student loan debt relief scam. In four years of operation, the SLAM Companies took in approximately one hundred million dollars, directly harming 170,000 customers.

40. That would have been impossible for the SLAM Parties without the payment-processing services that Defendants provided. Had Defendants simply refused – as they should have – to provide their services, or if they had ever sounded the proverbial alarm, all (or the vast majority of) the consumer harm suffered here, and the resulting liability of the Receivership Entities, could have been avoided for the reasons set forth below.

41. Part of the reason why the SLAM Companies were able to defraud consumers for as long as they did (in addition to Defendants' substantial

assistance) was their ability to form, use, and then ditch a host of shell companies and dbas. The SLAM Companies changed their names constantly, not as a means of innocent corporate rebranding but as an attempt by the SLAM Owners to hide their assets and keep regulators at bay.[4] The name changes allowed the SLAM Companies to effectively "start over" once one entity's chargeback rates grew too high or the entity otherwise would have attracted regulatory scrutiny.

42. Defendants had actual knowledge of the ongoing fraud and specifically knew that the SLAM Owners were masking their common ownership of the SLAM Companies. Defendants knew this *because they were helping the SLAM Companies do it*. During the relevant period, Defendants assisted the SLAM Companies in opening approximately 12 different Merchant Identification Numbers ("MIDs") for the SLAM Companies plus CAC, all of which were owned by the SLAM Owners and which engaged in precisely the very same business as one another.

43. The SLAM Companies' use of multiple MIDs is indicative of precisely the type of potential "load balancing," a practice in which a business spreads its transactions among multiple merchant accounts to avoid triggering chargeback thresholds that would increase scrutiny from the credit card associations, that would have set off alarm bells for any business in Defendants' position that was abiding by accepted industry standards.

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[4] The SLAM Owners regularly deployed a dizzying array of generic sounding business names including: Premier Student Loan Center; Financial Preparation Services; South Coast Financial Center; Direct Account Services; Financial Loan Advisors; Account Preparation Services; Administrative Financial; Tangible Savings Solutions; Coastal Shores Financial Group; First Choice Financial Centre; Administrative Account Services; Primary Account Solutions; Prime Document Services; Financial Accounting Center; Doc Management Solutions; Sequoia Account Management; Pacific Palm Financial Group; Pacific Shores Advisory; First Document Services; Keystone Document Center; Administrative Accounting Center; Global Direct Accounting Services; Signature Loan Solutions; Best Choice Financial Center; Yellowstone Account Services; Regional Accounting Center; and Financial Direct Services.

44. Defendants were not such a business, and it was only when the CFPB and state regulators sued the SLAM Companies in October 2019 that the business was shuttered, putting an end to the fraud that Defendants had for years aided and abetted, profited from, and refused to stop.

The ISO and Payment Processing Industry

45. NMC is an Independent Sales Organization, or ISO. As such, NMC acts as an intermediary to link merchants with acquiring banks that have the ability to process sales through credit card networks such as Visa or Mastercard. In turn, NMC utilized the Lai Defendants to act as its sales representative and as a "go-between" for itself and many of its merchant clients, including the SLAM Parties. Lai himself also worked as a direct employee of NMC. At all times relevant to the Complaint, the Lai Defendants were agents of NMC.

46. Here, NMC acted as what is known as a "Wholesale ISO," which meant that it provided the subject merchant services to the SLAM Companies under a separate tri-party agreement it had in place with another ISO (First Data Merchant Services Corporation[5]) and an acquiring bank, Wells Fargo. Under this agreement, NMC assumed responsibility for the initial underwriting of prospective merchants as well as the financial liability for consumer chargebacks on the accounts in its merchant portfolio.

47. First Data is a global merchant services acquirer and payment processor that processes trillions of dollars in annual payment volume in the United States through a variety of distribution channels and partnerships, including through ISOs such as NMC. At all times relevant to the Complaint, First Data contracted with NMC to have NMC sell First Data's payment processing services.

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[5] In or about July 2019, Fiserv, Inc. acquired First Data Merchant Services Corporation prior to the Receiver's appointment. Both entities are referred to as "First Data" herein.

NMC employed and/or contracted with the Lai Defendants to do the same on its behalf. It was Lai who originally introduced the SLAM Owners to NMC.

48. At all relevant times, First Data maintained the SLAM Companies' reserve accounts and performed payment processing services for the SLAM Companies' customer transactions, including providing the means to transmit transaction data from the SLAM Companies to an acquiring bank and then clearing, settling, and distributing proceeds from the transactions back to the SLAM Companies.

49. NMC was responsible for monitoring the SLAM Companies' transactions for fraud. As set forth in First Data's program standards for Wholesale ISOs like NMC, a significant part of NMC's underwriting of the SLAM Companies was supposed to include validation/verification of the legitimacy of the SLAM Companies' business.

50. Under its agreement with First Data, NMC's responsibilities included performing a credit review and conducting a site inspection for each merchant processing application. Further, for high-risk merchants such as the SLAM Companies, NMC's own mandated "underwriting process" required, among other things, a review of the merchant's financial statements to determine its credit worthiness and a search of various websites for consumer complaints.

51. The Receiver is informed and believes that Wells Fargo published credit risk guidelines, to which NMC and First Data agreed to adhere, which specifically warned about merchants opening multiple accounts (especially via multiple shell companies), which would have different owners on paper, but which really had the same or similar principals. NMC and First Data were specifically warned in some cases that "mules" or "fronts" with little or no business involvement might be submitted by merchants to obscure companies' true ownership. Using multiple merchant accounts for the same business is also a

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strong indication that a merchant applicant is load balancing. At all relevant times, Defendants knew that the SLAM Parties were engaging in these illegal practices.

52. The practice of processing credit card transactions through another company's merchant accounts is called "credit card laundering" or "factoring" in the credit card industry. It is strictly forbidden by the credit card associations and is illegal under federal law. At all relevant times, Defendants knew that the SLAM Parties were engaging in credit card laundering and factoring.

53. In exchange for soliciting, contracting with, and monitoring merchants, NMC and First Data earned commissions based on the volume of transactions generated by each merchant account, including those belonging to the SLAM Companies. The greater the volume, the more Defendants earned. In addition, NMC and First Data also earned a fee for processing each "chargeback" that the SLAM Companies incurred. A "chargeback" occurs when a customer contacts his or her credit card issuer to dispute a charge appearing on his or her credit card account statement.

54. A high number of chargebacks for any particular merchant is typically indicative of illegal or fraudulent activity surrounding the underlying transactions. Moreover, high rates of chargebacks for certain individual categories, such as "unauthorized" or "insufficient funds," serve as obvious "red flags" regarding potential fraud, deception, or illegality underlying a transaction and require ISOs and payment processors following industry standards to investigate and determine the cause of customer chargebacks.

55. Notwithstanding the above warnings and safeguards intended to prevent ISOs and payment processors from working with fraudulent merchants, Defendants elected to aid and abet the SLAM Parties in their fraudulent scheme in order to reap illicit profits from the enterprise. In doing so, they violated not only accepted industry practices for scrupulous payment processors and ISOs, but also their own policies (as they were written) and their agreements with First Data and

Wells Fargo. NMC, in concert with the Lai Defendants, blatantly disregarded its own underwriting and monitoring obligations, and instead chose to actively assist the SLAM Companies with their obvious load balancing, willingly and knowingly accepted applications from "front" owners, and ultimately never undertook any meaningful steps to stop the SLAM Companies' ongoing illegal conduct or terminate their relationship with the fraudulent enterprise.

56. Defendants also actively aided the SLAM Owners in setting up shell companies and masking issues that would otherwise have raised the suspicions of the credit card companies. For example, when Defendants were presented with ever-increasing chargeback rates (a key indicia of fraud by the SLAM Companies), NMC half-heartedly asked, on multiple occasions, that the SLAM Companies reduce their chargeback rate. They *insisted*, however, that the SLAM Companies increase the reserve amounts deposited with NMC. In other words, NMC made sure to protect *itself* from the potential losses it could suffer through chargebacks and SLAM's fraudulent conduct by increasing the reserve amounts the SLAM Companies had on deposit with NMC. This insulated NMC from the negative consequences of the SLAM Companies' misconduct; as to the consumers being victimized by the SLAM Companies, however, NMC had little concern. In fact, NMC sent the SLAM Companies the message, loud and clear, that they could otherwise go about their business defrauding consumers, and NMC would help them do so, as long as they ensured NMC was protected.

Defendants Played a Vital Role in the SLAM Companies' Fraud

57. As the primary conduit for the SLAM Companies to obtain their payment processing, Defendants played a critical role in carrying out the SLAM Companies' fraud on consumers. Put simply, the SLAM Parties were only able to bilk consumers out of approximately $100 million because of Defendants' willing cooperation. Defendants happily provided substantial assistance (including by providing continued access to their payment processing connections, here, First

Data) with full knowledge of the SLAM Companies' ongoing fraud and the SLAM Owners' breaches of their fiduciary duties.

58. Before NMC showed up on SLAM Companies' doorstep, finding a payment processor willing to operate with them had been a challenge for the SLAM Owners. One potential partner, Maverick Bankcard ("Maverick") wrote to one of the SLAM Owners, Kaine Wen, in November 2018 to explain why they were going to "pass on the opportunity" to work with the SLAM Companies:

> There have been two FTC press releases in the past week about student loan and debt relief companies (see below) ***in addition to your recent bar probation*** (see below) and simultaneously restructuring under a new corp and signer. ***Esquire believes that all of these factors present too much risk at the moment.***

(Emphasis added).

59. Maverick's reference to Kaine Wen's "recent bar probation" is significant. On or about July 11, 2018, a "STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION" (the "Suspension Order") of Wen's California bar license was entered. A true and correct copy of the Suspension Order is attached hereto as Exhibit 2.

60. Per the facts in the Suspension Order *to which Wen himself stipulated*, a professional corporation registered by Wen, "Stone Law Group," partnered with CAC in 2014. In 2015, CAC's "owner" convinced the individual who filed a complaint with the State Bar to pay a total of $2,900 in "advance fees" to CAC for a modification of his residential mortgage loan. CAC never performed the work. The complainant had no way to contact Stone Law Group by telephone, and quickly discovered that the Group's website was unavailable. Similarly, the phone number CAC had provided him was not in service. The complainant was left to find a loan modification on his own, having received no assistance from either Stone Law Group or CAC in exchange for the $2,900 he paid them.

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61. Maverick was aware of Wen's probation. If Maverick was aware, there is no reason why Defendants – who had already been servicing Wen and the SLAM Companies for more than a year – would not likewise have been aware of Wen's probation and CAC's role in it. On information and belief, Defendant knew about Wen's probation and CAC's role in it, but Defendants did not care.

62. The reality is that Defendants were just as aware as Maverick and Esquire Bank (in fact, they were more aware) of the nature of the SLAM Companies' business and the risks it posed for any payment processor doing business with them. Unlike Maverick and Esquire, however, Defendants decided the price was right and provided, on a continuing basis, access to payment processing services for the SLAM Companies. Far from ever constraining the SLAM Companies, or putting guardrails or oversight on them, NMC instead *increased* their processing volume for the SLAM Companies virtually up until the CFPB's lawsuit, thus enabling the SLAM Parties to enlarge their fraud and inflict more harm on the Receivership Entities and consumers.

63. Without partners like Defendants who were willing to break the rules, consistently "look the other way," and take numerous steps to assist the fraud as detailed herein, the SLAM Companies would have collapsed years earlier, and thousands of the SLAM Parties' victims could have been spared millions of dollars.

Defendants' History of Aiding and Abetting SLAM's Fraud and SLAM Owners' Breaches of Fiduciary Duty

64. Nearly from the fraud's inception, Defendants provided substantial assistance to the SLAM Companies, and Defendants' aid was a key component of the SLAM Companies' massive growth.

65. NMC began its relationship with the SLAM Parties in July 2017, when it started providing access to payment processing services for CAC. Lai was the individual responsible for introducing the SLAM Owners to NMC. At all

relevant times, NMC utilized the Lai Defendants as its primary conduit for communications with the SLAM Owners, and the Lai Defendants served as NMC's agent.

66. NMC initially hired Lai to be its Director of Risk and Underwriting in 2009. On information and belief, he continued to serve in that role up until the very end of the SLAM Companies' fraud. During that time, and with NMC's full knowledge and support, Lai maintained and used an NMC email address with a signature block identifying himself as NMC's Director of Risk and Underwriting. This was the case even when Lai also had and used a Swift Payments email account. During the Lai Defendants' relationship with the SLAM Companies, Lai sent emails from his NMC account to First Data on NMC's behalf in order to provide instruction to First Data on transferring funds for the SLAM Companies' various merchant accounts.

67. Lai has a lengthy history with NMC's Associate Director of Risk and Underwriting, John Thompson ("Thompson"), and their relationship dates back well before NMC began working with the SLAM Parties. Throughout the relevant time period, Lai consistently maintained a close working relationship with NMC, including (and especially) Thompson.

68. On August 8, 2017 (at approximately the same time NMC began providing payment processing services for CAC/the SLAM Companies), and while Lai was serving as NMC's Director of Risk and Underwriting, Swift Payments entered into an Independent Contractor Agreement with NMC and became an authorized reseller of NMC's services.

69. Additionally, on April 29, 2019, Lai personally entered into a Consulting Agreement with NMC to assist in operating NMC's Risk and Underwriting Department (then being overseen by both Lai and Thompson). The Receiver is informed and believes that, apart from NMC, Lai and Thompson also

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formed a separate limited liability company together to consult with companies seeking high-risk merchant processing.

70. Throughout their symbiotic relationship, Lai's delivery of business to NMC (including the SLAM Companies' business) remained his and NMC's top priority. The Lai Defendants were handsomely compensated for their efforts to drive business to NMC.

71. As early as November 2017, the SLAM Owners began complaining to the Lai Defendants about NMC increasing CAC's reserve account balances due to excessive chargebacks – a tell-tale sign of fraudulent transactions.

72. Defendants, however, were unphased by the massive chargebacks, even though those chargebacks were clear indicia of the SLAM Companies' fraud. As early as January 2018, Lai was coaching SLAM Owner Tuong ("Tom") Nguyen on how to *downplay* excessive chargebacks. When Nguyen told Lai that the SLAM Companies offered refunds to dissatisfied consumers, Lai wrote back to discuss the SLAM Companies' "top 3 complaints by consumers," which were: 1) chargeback code 4837 for "No Cardholder Authorization"; 2) chargeback code 30 for "Services Not Provided or Merchandise Not Received"; and chargeback code 83 for "Fraud—Card-Absent Environment." Lai wrote to Nguyen: "an explanation of refunds will be least of their concern as you have not demonstrated a proactive step to eliminate above issues from the start. Refunds is only a reactive measure."

73. Rather than explain how the SLAM Companies would "demonstrate[] a proactive step to eliminate" the fraud issues, Nguyen put the blame on consumers, complaining that "[i]t is really hard to give an explanation when 99% of the chargebacks are because the clients are lying." Lai accepted Nguyen's explanation without blinking, though he did comment that "IF buyer's remorse is the fundamental cause of these CB's because consumers realized ***they could've achieve[d] the same/similar result for free***, you may consider adding more value to the package/service sold to distinguish it's difference as a possible solution"

(emphasis added). In other words, if the reason consumers were canceling was because they realized the SLAM Companies had sold them a fake bill of goods and were running a fraudulent operation, Lai's suggestion was that the SLAM Companies might want to consider actually providing the consumers a legitimate service. The SLAM Companies, of course, never did that because – as Lai and NMC fully knew – it would have cut into their bottom line.

74. Lai and NMC knew exactly what was happening. But instead of investigating the excessive chargebacks further, reducing transaction volume, or terminating its business with the SLAM Companies (as any scrupulous ISO following standard industry practices would have done), NMC did the exact opposite. In February 2018, NMC accepted an application from yet another "new" entity established by the SLAM Owners and continued to *increase* the total volume of payments processed for the SLAM Companies exponentially. NMC did so even though CAC, its original SLAM Company partner, was in a Visa Monitoring Program due to its excessive chargebacks.

75. Similarly, in March 2019, Thompson specifically brought to the SLAM Owners' attention a number of consumer complaints regarding the SLAM Companies' deceitful business practices. There was no ambiguity in these consumer complaints, but as Defendants already knew, the SLAM Companies were clearly running a fraudulent business.

76. The complaints emailed by Thompson to Lai (who forwarded them to SLAM Owner Kaine Wen) flagged critical issues. The first clearly showed that (1) the SLAM Companies' pitches were causing consumers to believe that the monthly fees they were paying SLAM were going to their student loans (when they were really just going to SLAM), and (2) the SLAM Companies were putting consumers' loans into forbearance when they signed up, which meant the consumers would stop receiving payment statements from their lenders during the window of time when the SLAM Companies were collecting the bulk of their fees,

reinforcing the consumers' belief that their monthly student loan payments were now being made to SLAM (since they were no longer receiving statements from their servicer as they had been):

> I was called by a customer service person from this business telling me that they can lower my student loan debit and payments. they told me that my payments would be 239.00 a month for 4 months then go to 69.00 a month there after. on month 5 there was no lone payment pulled from my account and I received a letter from ,who I though[t] was my former student lone carrier stating that my payment of 269.00 will be due next month now that my forbearance was no longer in place. I called them and explained what SL Account Mgmt had told me and they said that I had signed a form putting my lone in forbearance until October. I then looked up my 1st payment to SL-A-M and realized that on that day when I did the paperwork in my email , Sl A.M. sent in a forbearance request to my Student loan company. as it stands now I am not saving any money , my payments were not reduced and I paid them for services that were not rendered. according to my student loan company they have no idea what I was talking [about]

77. The second complaint likewise confirmed that consumers were being told to stop paying their loan servicers and to pay SLAM instead, and also that obtaining a refund – *i.e.*, "get[ting] anybody to return [a] phone call" – was extremely difficult:

> I have been trying to call the agent who I was talking to at first to see how can I see the account dealing with my student loan forgiveness. After they received money from me, I have not heard or cannot get anybody to return my phone call. Also, I was told that I did not have to worry about my student loan payments and to just pay the sl account management. I have received a bill from the student loan people after paying sl account management. I will like to have my money refund back to me so that I can start paying my student loan.

78. And Defendants knew that these consumer complaints were not isolated instances. In fact, Defendants were well aware that numerous consumers had made similar complaints to the Better Business Bureau (BBB).

79. In response, Thompson stated that in lieu of a legal opinion letter sanctioning the SLAM Companies' business model (the minimum that NMC should have required, but which no ethical lawyer would have ever signed), NMC would need an attestation from one of the SLAM Owners "confirming that they are

following all required rulers pertaining to modification lending and or document preparation which includes accepting payment upfront for services not yet rendered," along with a "legal option letter explaining why their Company is not violating any State or FTC Consumer Protection laws, when they charger for the services they are rendering." Thompson also stated that the SLAM Companies would need to address the following:

> • When do they charge the customer for their services? What services have they provided at the time they first charge is made? Do they break up the fees into 2 or 3 payments. When is the last payment made and is it made after the services are rendered? How are they confirming services are rendered to the customer?
>
> • What is their refund policy? Why do they believe their refund policy is not violating Consumer Protection Laws?
>
> • Why are their complaints that Customers are paying for services they are not receiving? How is the company addressing these complaints as they could be seen as violations of the Consumer Protection Laws? **See** [the two consumer complaints quoted herein above]:
>
> • We need 20 examples of proof that they are addressing the above concerns and are not violating any Consumer Protection Laws. I also need 20 examples of them address the issues found on BBB as well.

80. The "Attestation of Compliance" that Kaine Wen provided in response addressed *none* of the above, nor did it offer any explanation for the two consumer complaints highlighted by Thompson. It merely reiterated that SLAM was a "document preparation company" before (falsely) claiming that "SLAM has partnered with dedicated account providers who serve as banking and escrow platforms for its clients…SLAM does not collect any document preparation fees until services are fully rendered, the client's first payment is complete, and proof is shown to reflect that."

81. On information and belief, NMC never required the SLAM Owners to answer *NMC's own questions*, nor did it conduct a further investigation or terminate the relationship. In short, NMC did not care about the obvious inadequacy of the response, since it already knew that the SLAM Companies could

not provide satisfactory answers given their ongoing fraud. Instead, NMC simply continued doing business with the SLAM Companies. The relationship was simply too profitable to abandon.

82. NMC did far more than just look the other way, however. As described below, NMC went on to directly assist the SLAM Companies on a variety of fronts in avoiding a regulatory investigation that would have torpedoed the business.

Defendants' Assistance with the Switch from CAC to Horizon Consultants

83. On or about September 10, 2018, the CFPB issued a Civil Investigative Demand ("CID") to CAC to investigate its fraudulent activities. This investigation ultimately caused the SLAM Owners to enlist Defendants' help yet again, this time to help with the transfer of all of CAC's business to another one of the SLAM Companies – Horizon Consultants LLC – while the SLAM Owners filed a bogus bankruptcy petition for CAC in Florida.

84. Just a few days after Maverick and Esquire Bank declined the SLAM Companies' business, SLAM enlisted Lai (their trusted NMC insider) on December 4, 2018, to help Horizon obtain a new merchant account through NMC. In a transparent attempt to avoid the scrutiny that would have been caused by working with another company owned and controlled by the SLAM Owners, the SLAM Owners used a strawman or "mule," named Keneth Hu ("Hu"), an IT employee of the SLAM Companies, to apply for a merchant processing account in the name of Horizon.

85. Although they falsely claimed in Horizon's application that Hu was the 100% owner of Horizon, Defendants understood that this new entity was actually owned and controlled by the SLAM Owners. All of Defendants' interactions with Horizon were conducted with the SLAM Owners, and never with Hu.

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86. In fact, when Horizon's NMC application was finalized on December 10, 2018, it contained Hu's name and all of his personal information, yet Lai, on behalf of NMC, sent the application to SLAM Owners Kaine Wen and Tuong Nguyen, not to Hu. Lai added the note: "Please review for accuracy, sign and return."

87. The application also falsely represented that Lai had personally conducted a "site inspection" of Horizon's business premises – which, per the application, was actually Hu's home address. Any actual site inspection would have quickly revealed the truth: that there was no student loan consolidation business being operated from Hu's residence. Notwithstanding its actual knowledge of the false information on this application, NMC approved the application and proceeded to run consumer charges that had previously been run under CAC's account through the new Horizon merchant account.

88. But NMC did more than just rubber-stamp the Horizon application (despite its obvious reliance on a front) and transfer the charges from CAC to Horizon – it actively assisted the SLAM Companies in their use of load balancing in order to keep the companies' payment processing services from being canceled due to high chargeback rates.

89. In January 2019, soon after Lai and NMC helped set up Horizon with an account at "Quantum Electronic Payments" (a Swift Payments company, based on the email address used), Kaine Wen – not the ostensible owner Keneth Hu – received an auto-generated email warning him that the Horizon account was reaching its maximum monthly transaction limit. Wen forwarded the email to Nguyen and Lai.

90. Lai wrote back, now copying Thompson. Lai's response shows that he, Thompson, and their mutual employer, NMC, understood with perfect clarity the ongoing fraud and specifically the load balancing in which the SLAM

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Companies were engaging (with NMC's assistance) and the lengths they were willing to go to keep SLAM's business up and running. Lai wrote:

> **The load balancing pushed too much volume on the Horizon MID with NMC.**
>
> Don't worry about it ….I'll deal with Risk on Monday to explain what happened.
>
> John [Thompson]- please make note on account explaining volume. **We should not see anymore volume on the Horizon MID for January.**
>
> (Emphasis added.)

91. On information and belief, Thompson did as Lai asked and rerouted transactions from the new Horizon MID to other SLAM accounts.

92. When Wen received a similar notification in February, Lai again worked swiftly to address the issue:

> This was already handled in the early morning. Increased processing to 500K but need to obtain financials to support volume.
>
> **We might just get away with being under 100 Visa chargebacks for February if we don't receive any spikes in chargebacks for the remainder of this month.**
>
> Next two weeks will be very crucial for us on maintaining the merchant account.
>
> (Emphasis added.)

93. Later, Lai circled back with an update for Wen and Nguyen: he needed their help to qualify the account for the "500k processing volume" they wanted. Lai wrote that "[p]referably," that would be "a strong cross corp guarantor with available financials and the cash reserve" in order to "satisfy underwriting."

94. Wen responded the following day, on February 16, and asked, "Is this for the NMC Horizon account? If so, can you move the reserve funds from CAC/TC [True Count Staffing d/b/a SL Account Management] over to Horizon?"

95. Lai was more than happy to help. The Lai Defendants, with NMC's knowledge, consent, and support, agreed to move the CAC reserves over to Horizon. Lai went so far as to instruct the SLAM Owners as to "[t]he best way to

move the reserve funds without drawing a connection between both accounts," which would "be for us to release the reserves to the respective merchant account and then have you wire the funds back to our merchant reserve account." The SLAM Owners quickly agreed to Lai and NMC's plan.

96. Throughout, Lai kept NMC apprised of the situation. In February 2019, Lai (copying Thompson) emailed NMC's CEO, Roman Balanko, to inform him directly that CAC's "bankruptcy filing was a strategic action recommended by merchant's counsel to 'STOP' any possibilities of future issues" and that "no other creditors will contest the request since their [*sic*] are no outstanding debts known" – in other words, this was a sham bankruptcy. Defendants would have understood as much, because they knew that the SLAM Companies' business was still up and running, just under a new name. Lai knew that all Balanko would care about was his bottom line, and Balanko was apparently unbothered since he continued to partner with the SLAM Companies.

97. Lai understood the value that the SLAM Companies' business had to both him and NMC. In order to make the partnership work, he offered to provide legal cover for both the SLAM Companies and NMC, writing (in the same email to Balanko) that "we would like to close the CAC account and hold Swift Payments liable for all future chargebacks, refunds, and fees due on account. This way we will be able to state account closure due to merchant filed bankruptcy without any impact/connection to True Count Staffing."

98. Defendants' motivations behind their willingness to continue to work with the SLAM Parties despite the obvious and ongoing fraud are not difficult to discern. Between January and September 2019, Horizon transactions generated over $500,000 of revenue for NMC, on top of the nearly $2 million in reserve account payments that it collected. On information and belief, the Lai Defendants were handsomely compensated for their efforts assisting the fraud as well.

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Defendants' Role in the Trusted Account Services (TAS) Sham

99. Less than a year after Defendants obtained processing services for Horizon, the SLAM Owners turned once again to Defendants to carry out another deception using yet another strawman.

100. Just as the regulators were closing in during fall 2019, the SLAM Companies, with Defendants' substantial aid and assistance, concocted a "Hail Mary" plan to give themselves cover from allegations that they were violating the TSR (which they were). The SLAM Companies began telling consumers that they were now using an "independent" escrow company named Trusted Account Services, or "TAS" for short, to hold and protect their consumer funds. The SLAM Companies told their customers that they would have new "Dedicated Client Account[s]" with their "dedicated account provider," TAS, and assured consumers that TAS would "only release our fees after the Department of Education approves your Income Driven Repayment Program every year….Any time before completion of the work, you can cancel and get your funds back. Your funds will only be released to us after we prove to you and Trusted Account Services that we have completed the work."

101. Collecting advance fees was a key component of the SLAM Companies' fraudulent business model. With regulatory pressure and scrutiny mounting, however, the SLAM Companies tried to dupe both consumers and the authorities into believing that they were complying with the "escrow exception" to the TSR discussed above.

102. To accomplish their goal of faking compliance with the escrow exception, the SLAM Companies formed TAS in March 2019. TAS would be a purportedly "independent" escrow company, separate and apart from the SLAM Companies, which was necessary for compliance with the escrow exception. It would theoretically hold the advance fees paid by consumers until the requirements

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for disbursal under the escrow exception were met – *i.e.*, the new repayment plan was accepted and the consumer made his or her first payment under the new plan.

103. To complete the fiction that TAS was not owned or controlled by the SLAM Companies, another front (this time, an acquaintance of the SLAM Owners named Kenny Huang ("Huang")) was needed. Defendants were, once again, willing accomplices.

104. As a result of the SLAM Owners' close relationship with Defendants, the SLAM Owners did not have to present an elaborate charade of TAS's independence. Defendants understood that the SLAM Owners owned and controlled TAS and were simply propping up Huang as a front. Likewise, Defendants went out of their way to disguise TAS's relationship to the SLAM Companies.

105. In part, Defendants' assistance came in the form of heavy edits to the draft TAS agreements that the SLAM Owners were sending them, as Defendants advised the SLAM Owners on the best ways to make TAS seem more independent. On June 18, 2019, for example, NMC sent the SLAM Owners, via Lai, a heavy markup of TAS' draft account agreement with its student loan debt relief customers, which the SLAM Owners had previously sent to Lai for NMC's review. NMC's suggested edits included striking all references to TAS working in the "student loan modification business," even though that was *precisely* the space within which TAS was operating. The reasoning was clear: deceive consumers and other third parties by making it seem like TAS was operating in more than just one industry, and not just in the problematic student loan debt relief business, and also make it appear that TAS had more than just one "customer" – the SLAM Companies.

106. The following day, the SLAM Owners submitted a revised application for TAS to NMC, again through the Lai Defendants, with Huang as the front and the nominal 100% owner. Defendants once again lied on the SLAM Owners'

behalf – just as with Horizon, Lai falsely declared that he had personally conducted a "site inspection." Lai had done no such thing, of course; there was not even a business operating out of the listed business address, which was actually a non-descript "corporate office" in Sheridan, Wyoming. As Defendants knew, this "corporate office" was nothing more than a mail drop. Huang's home address in Arcadia, California was listed as TAS's mailing address.

107. Six days later, on or about June 25, 2019, Thompson saw that there were a host of problems with the TAS application. But rather than prompting NMC to investigate the holes or to cut ties with the SLAM Companies (as accepted industry practices obviously required), Thompson, on NMC's behalf, simply advocated for the SLAM Owners to edit and resubmit the application. Even a minimal investigation by a truly independent third party would have quickly revealed the underlying fraud – but by this point, of course, Defendants were well aware of the ongoing fraud and encouraged the SLAM Owners to sanitize the TAS application so it could be approved.

108. The SLAM Owners, at Defendants' request and at their direction, happily complied, revising and resubmitting the signed TAS application on or about July 1, 2019.

109. Remarkably, on July 8, 2019, NMC made further edits to the *previously signed* TAS application and stated that they had "updated the location to [Huang's] home address and [the] Wyoming address is the mailing address," clearly demonstrating Defendants' full understanding that the listed business and mailing addresses were purely fictional.

110. On September 25, 2019, NMC reviewed and provided substantive changes to and comments on TAS's vendor agreement for its "legacy clients." In one telling comment, NMC specifically identified the falsity of TAS's representation that its officers have never been the subject of any federal, state or local government action, stating "[t]his statement is already invalid due to the State

actions filed against Owners and former company called Premier Student Solutions Center. We need to discuss further." On information and belief, no further discussions occurred, and the vendor agreement was left unchanged.

111. On September 26, 2019, NMC reviewed and provided substantive changes to and comments on TAS' vendor agreement for "new clients." Many of the changes and comments mirror those NMC previously sent regarding the "legacy clients."

112. On September 28, 2019, the SLAM Owners reviewed NMC's edits and informed NMC, via the Lai Defendants, how and when NMC would be able to *increase* its profits with a 3.5% processing fee. The SLAM Owners further addressed (and in some instances, incorporated) NMC's changes to the TAS agreements.

113. The roles of Defendants in the TAS deception went further than just suggesting changes to the TAS agreements which were intended to further the deception. On or about September 1, 2019, the Lai Defendants "purchased" a 51% interest in TAS from Huang (for only $491) in a further transparent attempt to create the illusion of TAS' independence from the SLAM Parties.

114. The Lai Defendants, of course, knew what was really happening, as did NMC. On September 17, Lai emailed Albert Kim to ask for "a list of rep names and email addresses" for TAS – a company that, supposedly, Kim and the SLAM Owners and Companies had nothing to do with, but which the SLAM Owners actually owned and controlled. More telling is Kim's response. Kim told Lai what the TAS voicemail message should say, and explained that if the caller wanted "immediate assistance" from TAS, the "call needs to be routed to TCS [True Count Staffing, d/b/a SL Account Management] customer service department." Kim added that the rerouted calls needed to be "label[ed]" as "TAS CS, so the customer service rep is prepared to take the call."

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115. Chargebacks to TAS were also handled by the SLAM Companies – as Defendants knew. On October 14, 2019, for example, a SLAM employee emailed Lai with a list of TAS "pre-chargebacks" (*i.e.*, transactions which were going to be charged back, negatively impacting TAS's chargeback rates, unless TAS issued a preemptive refund). Lai resolved the pre-chargebacks for the SLAM Companies "this time," but made it clear he expected SLAM to handle them going forward, writing, "TAS would only subscribe to such service on the request of SLAM ***so you guys will end up working these anyway***" (emphasis added).

116. After their substantial assistance creating the fake escrow company, TAS, Defendants quickly began profiting from the latest (and thankfully last) of the SLAM Companies' entities. On or about September 12, 2019, NMC began providing access to payment processing for TAS, and by the end of the month, more than $800,000 in consumer funds had been processed, resulting in $36,000 in fees for NMC and an unknown sum for the Lai Defendants.

117. Over the course of October, TAS consumers transacted another $2,000,000 in transactions, using NMC's payment processing access before the door was slammed shut by the CFPB lawsuit in late October 2019.

The CFPB's Lawsuit Against CAC and the SLAM Parties

118. On October 21, 2019, the CFPB, along with the State of Minnesota, the State of North Carolina, and the People of the State of California filed their complaint against CAC and the SLAM Parties for their fraudulent student loan debt relief operation, seeking permanent injunctive relief, damages, rescission or reformation of contracts, refunds of moneys paid, restitution, disgorgement or compensation for unjust enrichment, civil money penalties, and other monetary and equitable relief.

119. The CFPB's original complaint (which has since been superseded by the Second Amended Complaint, ECF No. 284, redacted), alleged, among other things, violations of sections 1031(a) and 1036(a) of the Consumer Financial

Protection Act of 2010, 12 U.S.C. §§ 5531(a), 5536(a); and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6102(c)(2), based on alleged violations of the Telemarketing Sales Rule, 16 C.F.R. pt. 310, in connection with the defendants' marketing and sale of debt-relief services.

Lai's Perjured Testimony in Support of the SLAM Parties in the CFPB Lawsuit

120. Defendants continued to assist the SLAM Companies with their deceptions even after the CFPB's lawsuit was filed. Instead of helping the CFPB or the Receiver recover assets for the victims of the SLAM Companies' fraud, Defendants did the opposite.

121. After the TRO was entered, and despite the CFPB's lawsuit and the appointment of the Receiver, Lai aided the SLAM Companies in their initial attempt to defeat the CFPB's lawsuit. When the SLAM Owners and Companies opposed the CFPB's request for a preliminary injunction, Lai submitted a declaration in support of their filing that was riddled with extraordinary falsehoods.

122. For example, Lai falsely claimed in his declaration that "TAS is not owned or controlled (and has never been owned or controlled) by any Defendant [*i.e.*, the SLAM Owners, CAC, True Count, and Prime Consulting] or Relief Defendant." In the same vein, Lai falsely declared that "[s]ince I have been involved with TAS, the only connection that TAS has had to any Defendant or Relief Defendant is that TAS was formed as a result of discussions I had with Mr. Wen regarding TCS's need to escrow its clients' funds, and TAS worked with TCS and Mr. Wen to establish the software portal through which TAS's systems could integrate with TCS's systems."

123. Lai also falsely claimed that "[n]o Defendant or Relief Defendant has access to or control over the funds TAS holds in escrow for the benefit of TCS's clients until TCS submits proof to TAS that the client services relating to which the funds were escrowed have been performed."

124. The latter claim is particularly stunning given that Lai's own emails show how little he respected the function of the dedicated escrow account. On November 13, 2019, after the asset freeze was entered, consumer chargebacks caused TAS's operating account balance to go into the negative. Lai whined to his HSBC banker: "Since the negative balance stems from customer chargebacks for funds held on the client trust account, are you able to offset the amount from the 2.8MM sitting in the other account" – *i.e.*, the *dedicated client trust account*. He complained that "[i]t makes no sense to allow customers to continue issuing chargebacks on transactions held on their behalf in the client trust account resulting in a negative balance in the HSBC Ops account," showing zero concern for the fact that these were – as the CFPB's lawsuit made clear – defrauded consumers who were just trying to recover some of the funds that they lost.

125. Given Defendants' instrumental roles in setting up TAS as a strawman company for the SLAM Parties, Lai knew the falsity of nearly every statement in his sworn declaration submitted to the Court, as did Defendants. NMC, which knew about the CFPB's lawsuit and was actively monitoring the circumstances, also knew of the falsity of Lai's sworn statements and did nothing to correct them.

126. On October 27, 2019, the Receiver served a deposition subpoena on Lai.

127. Lai's deposition was mutually scheduled for November 13, 2019; however, on November 10, 2019, Lai's counsel informed the Receiver that Lai would withdraw his declaration. As a result, the Receiver took Lai's deposition off calendar. On November 15, 2019, Lai recanted his testimony – in effect acknowledging the perjury – by formally filing his Notice of Withdrawal of his declaration. *See* ECF No. 99.

NMC's Final Attempt to Retain Its Profits

128. The CFPB's termination of the SLAM Companies' fraud brought an end to Defendants' lucrative relationship with the SLAM Parties. That did not,

however, deter NMC from trying to keep a cut of the SLAM Companies' illicit proceeds.

129. Soon after his appointment, on October 23, 2019, the Receiver's counsel notified NMC's counsel of the freeze of the SLAM Companies' assets and provided a copy of the Temporary Restraining Order to counsel. While Horizon was not named as a Receivership Defendant in the initial TRO, it was quickly determined to be one by the Receiver (and NMC was notified of such) no later than October 24, 2019.

130. Notwithstanding this and in violation of the TRO, on October 28, 2019, NMC instructed First Data to make five separate $99,999 transfers from Horizon's reserve account directly to NMC's own account.

131. The following day, on October 29, 2019, NMC instructed First Data to transfer another five separate payments of $99,999 from Horizon's reserves to NMC's account.

132. The transfers were promptly executed by First Data in two tranches on October 30 and November 1, 2019, with a total of $1,000,000 being transferred from Horizon's reserves into NMC's account in 10 separate transfers. First Data ambiguously noted these transfers as "Misc. processing fee" and "Merchant exception diverted debit" in its system.

133. NMC did its best to stymie the Receiver's efforts to identify and recover these funds. Specifically, on October 30, 2019, NMC provided the Receiver a sworn declaration, signed by Thompson, reporting the reserve amounts of certain SLAM Companies but omitting any mention of the Horizon reserves. Then, on November 1, 2019, just after the improper transfer of the $1,000,000 to itself, NMC submitted to the Receiver a "supplemental declaration," again signed by Thompson, declaring the amount of Horizon reserve funds remaining – a relatively small amount which did not account for the $1,000,000 that had just been transferred out of the accounts.

134. In the following months, NMC consistently took the position that Horizon had no reserves to provide the Receiver, claiming that the relatively minimal amount it had held at the time of the Receiver's appointment had been depleted by chargebacks it had incurred.

135. It was only because of the Receiver's independent investigation that NMC's improper taking of the reserve funds were ultimately uncovered. The Receiver learned of the improper transfers in late 2020, after reviewing records obtained by subpoena from First Data.

136. Unable to provide any legitimate business explanation for the withdrawals, NMC agreed to return the funds on January 4, 2021 and entered into a letter agreement the following day, a copy of which was signed by NMC's CEO Roman Balanko and NMC's counsel. A copy of the letter agreement is attached as Exhibit 3.

137. In their letter agreement, NMC and its CEO agreed that NMC would wire $800,000 to the Receivership Estate's account on January 5, 2021, before making a second wire of $199,980 before January 15, 2021. The parties to the letter agreement understood that "The Funds specifically relate to transfers made in the same aggregate amount which Receiver understands were made to NMC from Horizon Consultant LLC's reserve account on or about October 30 and November 1, 2019." NMC has since complied with the terms of the letter agreement.[6]

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[6] Consistent with the terms of the letter agreement, the Receiver's present lawsuit is pursuing the further claims he has against NMC relating to the underlying case. In doing so, the Receiver is expressly *not* making any claims, or seeking to recover any damages, related to NMC's acceptance, retention, or use of the funds contained in Horizon Consultant LLC's reserve account totaling $999,980. Thus, the Receiver will not seek to recover the principal amount NMC took from the Receivership Entities, as it has now been returned, and the Receiver will also not seek to recover for the unnecessary expenses the Receivership Estate incurred while investigating and pursuing the recovery of the funds.

The Present Status of the CFPB's Lawsuit

138. The District Court for the Central District of California has entered multiple stipulated judgments and orders finding that certain SLAM Companies are liable for damages in *CFPB v. CAC*. More specifically, on August 29, 2020, the Court held Prime Consulting jointly and severally liable in the amount of $95,057,757, and found Horizon Consultants LLC jointly and severally liable for the amount of $12,942,045. *See* ECF No. 211 (Corrected Amended Stipulated Judgment; *see also* ECF No. 205, 207, and 210).

139. The CFPB's lawsuit continues as to other SLAM Companies.

140. The Receiver now brings this lawsuit in an effort to hold the Defendants accountable for their acts aiding the SLAM Parties' fraud and related claims.

COUNT I

CIVIL CONSPIRACY TO COMMIT FRAUD

(All Defendants)

141. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

142. Defendants and the SLAM Parties, along with others, were members of a civil conspiracy which had numerous objectives, including (a) providing fraudulent and illegal student loan services in violation of numerous state and federal laws, and (b) enriching themselves from the generation, issuance, and payment processing of such fraudulent and illegal loan services, all at the expense of the Receivership Entities.

143. In furtherance of the conspiracy, Defendants and the SLAM Parties, along with others, agreed and intended, among other things, that NMC would continue to provide access to payment processing services for the SLAM Companies despite Defendants' knowledge (a) that the SLAM Parties were engaged in unlawful behavior and running a fraudulent enterprise, (b) that the

SLAM Parties were engaged in an elaborate shell game of moving assets and customers between various entities and engaging in load balancing between merchant accounts, and (c) that SLAM Parties would not have been approved for payment processing using traditional underwriting procedures.

144. As alleged herein, Defendants and the SLAM Parties committed numerous overt acts in furtherance of the conspiracy, including:

a. Defendants' approval, and submission to First Data on the SLAM Companies' behalf, of merchant processing applications prepared by the SLAM Owners that Defendants knew used front owners and fictitious business addresses;

b. The SLAM Companies' operation of a fraudulent student loan debt relief business as described herein, from which Defendants generated profits correlated to the defrauded consumers' payments to the SLAM Companies;

c. Defendants' provision of access to payment processing services for the SLAM Companies, despite their knowledge of the fraud and, as described herein, in contravention of standard industry underwriting procedures; and

d. Numerous other acts, as detailed herein.

145. As co-conspirators, Defendants are responsible for and bound by the acts of the SLAM Parties, including acts by them before Defendants joined the conspiracy, and acts by the SLAM Parties, if any, subsequent to Defendants' participation in the conspiracy.

146. Defendants and the SLAM Parties' conspiracy resulted in direct damages to the Receivership Entities. As alleged herein, Defendants' services were essential to the growth and success of the SLAM Companies' scheme, and proximately caused harm to the Receivership Entities, including the liabilities that ultimately resulted from such illegal conduct. The harm caused by Defendants to

the Receivership Entities exists in various forms, including, but not limited to (1) the fees charged to the Receivership Entities by NMC in connection with providing access to payment processing services, (2) the costs of defending the action brought by the CFPB (including the resulting Receivership), and (3) the liability of the Receivership Entities for the judgments resulting from the CFPB action, including but not limited to all judgments previously entered in the CFPB's lawsuit. The Receivership Entities thus suffered direct injuries as a result of Defendants' conduct in an amount to be proven at trial.

147. Alternatively, the Receivership Entities were damaged by Defendants conduct under a "deepening insolvency" theory of harm. Defendants' substantial assistance and participation in the fraud, as alleged herein, injured the Receivership Entities by increasing their exposure to creditor liability – in this case, the CFPB action and any and all resulting judgments against them. By fraudulently continuing and deepening the Receivership Entities' insolvency, Defendants contributed to the deepening insolvency of the Receivership Entities and are liable to the Receiver for damages in an amount to be determined at trial.

COUNT II

AIDING AND ABETTING FRAUD

(All Defendants)

148. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

149. Defendants knew that the SLAM Parties were engaging in fraud in the operation of their student loan debt relief business as described herein, including by misrepresenting material facts to consumers and concealing material facts and/or acts from consumers, and by providing student loan debt relief services to consumers in violation of state and federal law.

150. The SLAM Parties defrauded consumers by making the misrepresentations detailed above and in the operative complaint in *CFPB v CAC*,

including, among other things: employing coercive and misleading sales tactics and providing false information to consumers in order to convince them into sign up for or continue in their scam (for example, insinuating the SLAM Parties are affiliated with the Department of Education); manipulating consumer applications using false information in order to secure lower monthly payments than the consumers qualified for; and falsely representing that they were complying with the Telemarketing Sales Rule, claiming that the funds were safe and in escrow accounts of third parties in order to collect upfront advance fees from consumers. As detailed, herein, Defendants knew that the SLAM Parties were engaging in such improper conduct.

151. Defendants knowingly provided substantial assistance to the SLAM Parties' wrongful and tortious acts by acting as the primary conduit for payment processing services for the SLAM Companies' fraudulent enterprise, and by performing the other multiple acts described herein.

152. At the time Defendants provided assistance to the SLAM Companies, they were aware of their role as a part of the SLAM Parties' wrongful and tortious conduct.

153. Defendants knowingly and substantially assisted the SLAM Parties' fraud and violations of law.

154. The SLAM Parties' wrongful and tortious conduct, which Defendants substantially assisted, resulted in damages to the Receivership Entities.

155. As alleged herein, Defendants' services were essential to the growth and success of the SLAM Parties' scheme, and proximately caused harm to the Receivership Entities, including the liabilities that ultimately resulted from such illegal conduct. The harm caused by Defendants to the Receivership Entities exists in various forms, including, but not limited to (1) the fees charged to the Receivership Entities by NMC in connection with providing access to payment processing services, (2) the costs of defending the action brought by the CFPB

(including the resulting Receivership), and (3) the liability of the Receivership Entities for the judgments resulting from the CFPB action, including but not limited to, all judgments previously entered in the CFPB's lawsuit. The Receivership Entities thus suffered direct injuries as a result of Defendant's conduct, in an amount to be proven at trial.

156. Alternatively, the Receivership Entities were damaged by Defendant's conduct under a "deepening insolvency" theory of harm. Defendants' substantial assistance and participation in the fraud, as alleged herein, injured the Receivership Entities by increasing their exposure to creditor liability—in this case, the CFPB action and any and all resulting judgments against them. By fraudulently continuing and deepening the Receivership Entities' insolvency, Defendants contributed to the deepening insolvency of the Receivership Entities and are liable to the Receiver for damages in an amount to be determined at trial.

COUNT III

AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

(All Defendants)

157. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

158. As officers and/or directors of the Receivership Entities, the SLAM Owners had a fiduciary relationship with the Receivership Entities.

159. The SLAM Owners owed the Receivership Entities fiduciary duties of care and loyalty. The SLAM Owners breached these duties as described herein by, *inter alia*, using the SLAM Companies, including the Receivership Entities, to perpetrate an ongoing, fraudulent enterprise; enriching themselves at the expense of the Receivership Entities; creating significant liabilities for the Receivership Entities; and abusing their corporate forms.

160. The SLAM Owners' wrongful acts occurred while NMC provided primary access to payment processing services for the SLAM Companies during

their provision of illegal and fraudulent student loan services. Defendants knew that each of the SLAM Owners owed fiduciary duties of loyalty and care to the SLAM Companies, and Defendants also knew that the SLAM owners were breaching both their duty of care and their duty of loyalty by engaging in the pattern of misconduct that harmed the Receivership Entities as described herein. Instead of withdrawing their services or reporting the SLAM Companies' wrongful acts to relevant federal, state, or regulatory authorities, or to any individuals, Defendants instead permitted such acts to continue and substantially assisted the SLAM Owners' breaches of their fiduciary duties.

161. Defendants' aid of the SLAM Owners' breaches of their fiduciary duties resulted in direct damages to the Receivership Entities. As alleged herein, NMC's services were essential to the growth and success of the SLAM Parties' scheme, and proximately caused harm to the Receivership Entities, including the liabilities that ultimately resulted from the SLAM Parties' illegal conduct. If Defendants had not aided and abetted the SLAM Owners' breaches of their fiduciary duties to the Receivership Entities, the Receivership Entities would not have (1) paid NMC fees in connection with NMC's provision of access to payment processing services, (2) had to incur the costs of defending the action brought by the CFPB (including the resulting Receivership), and (3) been liable for the judgments resulting from the CFPB action, including but not limited to all judgments previously entered in the CFPB's lawsuit. The Receivership Entities thus suffered direct injuries as a result of NMC's conduct, in an amount to be proven at trial.

162. Alternatively, the Receivership Entities were damaged by Defendants' conduct under a "deepening insolvency" theory of harm. Defendants' substantial assistance and participation in the SLAM Owners' breaches of their fiduciary duties, as alleged herein, injured the Receivership Entities by increasing their exposure to creditor liability – in this case, the CFPB action and any resulting

judgment against them. By fraudulently continuing and deepening the Receivership Entities' insolvency, Defendants contributed to the deepening insolvency of the Receivership Entities and are liable to the Receiver for damages in an amount to be determined at trial.

COUNT IV

VIOLATION OF CALIFORNIA PENAL CODE § 496

(All Defendants)

163. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

164. Penal Code section 496(c) permits "any" person who has been injured by a violation of section 496(a) to recover three times the amount of actual damages, costs of suit and attorney's fees in a civil suit. Penal Code section 496(a) creates an action against "any" person who (1) receives "any" property that has been obtained in any manner constituting theft, knowing the property to be so obtained, or (2) conceals, withholds, or aids in concealing or withholding "any" property from the owner, knowing the property to be so obtained.

165. Under Penal Code § 1.07(a)(38), "person" means "an individual, corporation, or association." Each Defendant qualifies as a person capable of violating section 496(a).

166. The SLAM Parties obtained consumer funds by theft under Penal Code § 484, because those funds were obtained "knowingly and designedly, by false or fraudulent representation or pretense," from consumers. These funds were so obtained because, among other things, consumers were subject to the SLAM Parties' fraudulent sales practices, including, among other things: the SLAM Parties' employment of coercive and misleading sales tactics and provision of false information to consumers in order to convince them into sign up for or continue in their scam (for example, insinuating the SLAM Parties are affiliated with the Department of Education); the SLAM Parties' manipulation of consumer

applications using false information in order to secure lower monthly payments than the consumers qualified for; and the SLAM Parties' false representations that they were complying with the Telemarketing Sales Rule, claiming that the funds were safe and in escrow accounts of third parties in order to collect upfront advance fees from consumers.

167. In short, the SLAM Parties stole consumers' money and property, committing theft of consumer funds as defined in the California Penal Code.

168. With full knowledge of the SLAM Parties' frauds, Defendants received the property and funds of consumers that had been obtained through the SLAM Parties' theft (via Defendants' acceptance of commissions on payments that consumers made to the fraudulent debt relief business), knowing the property and funds to be so obtained.

169. Defendants also deliberately concealed, withheld, and aided in concealing and withholding funds and property from consumers victimized by the SLAM Parties, by retaining for themselves (Defendants) the fees they charged the SLAM Parties and managing the SLAM Parties' reserve accounts, which contained stolen consumer funds.

170. In doing so, Defendants knowingly facilitated the transfer of property wrongfully obtained from consumers to the SLAM Parties at their behest, property that was obtained by false or fraudulent representations or pretenses.

171. As a direct and proximate result of the acts and omissions described above, the Receivership Entities were deprived of assets by Defendants' violations of section 496(a). Pursuant to California Penal Code section 496(c), Plaintiff seeks statutory treble damages, costs of suit, and reasonable attorneys' fees.

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COUNT V

VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200

(All Defendants)

172. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

173. Business & Professions Code section 17200, et seq. prohibits acts of "unfair competition" which is defined by Business & Professions Code section 17200 as including "unlawful, unfair or fraudulent business acts or practices…."

174. Defendants have violated Business & Professions Code section 17200's prohibition against engaging in "unlawful, unfair and fraudulent business practices" by, *inter alia*, aiding and abetting fraud, conspiring to commit fraud, violating California Penal Code § 496, and based on the other conduct detailed herein.

175. The Receivership Entities suffered injury in fact and lost money as a result of Defendants' substantial assistance in the unlawful business acts and practices.

176. As a result of Defendants' violations of Business & Professions Code § 17200, et seq., the Receiver is entitled to equitable relief in the form of full restitution of all monies wrongfully paid pursuant to the fraudulent schemes aided and abetted by Defendants.

COUNT VI

REQUEST FOR AN ACCOUNTING

(All Defendants)

177. Plaintiff repeats and realleges the allegations of each and every one of the prior paragraphs, inclusive, as if fully set forth herein.

178. To ascertain the exact amounts received by Defendants in connection with the fraud, and to recover the amounts subsequently obtained by Defendants

and those it assisted in transferring to others, the Receiver seeks entry of an order compelling Defendants to file with the Court and serve upon the Receiver an accounting, under oath, detailing the amounts received from all accounts owned or controlled by the Receivership Entities or related individuals and entities, including from Defendants' accounts; the current locations of the amounts, including the specific bank accounts where the distributions are held; the persons or entities with control over the accounts; and the location of any assets purchased or acquired with those moneys.

JURY DEMAND

Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment against Defendants as follows:

1. For the relief stated herein, including all applicable damages caused by Defendants' tortious conduct, including participation in a conspiracy to commit fraud, aiding and abetting fraud, and aiding and abetting breach of fiduciary duty, in an amount to be determined at trial;

2. For a grant of punitive damages, pursuant to California Civil Code Section 3294, and treble damages pursuant to California Penal Code Section 496(c) in amounts to be determined at trial;

3. For the return of funds acquired by Defendants through unjust enrichment of the Receivership Entities' funds, including, but not limited to, funds acquired as fraudulent obligations supposedly owed to the Defendants by the Receivership Entities;

4. For imposition of a constructive trust in favor of Plaintiff as to all funds received by Defendants from the Receivership Entities;

5. For a judgment ordering Defendants to file an accounting, under oath, as requested herein;

6. For pre- and post- judgment interest;

7. For costs and fees as described herein, including for attorneys' fees and costs, to the extent permitted by law; and

8. For such other and further relief as the Court may deem proper.

Dated: October 18, 2021

MCNAMARA SMITH LLP

By: /s/ Andrew M. Greene
Andrew M. Greene
Attorneys for Receiver,
Thomas W. McNamara

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October, 2021, 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 also hereby certify that on this 18th day of October, 2021, a true and correct copy of the foregoing document, was served by e-mail and First Class United States Mail, postage prepaid, to the following:

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