

1 Logan D. Smith (SBN 212041)
lsmith@mcnamarallp.com
2 McNamara Smith LLP
655 West Broadway, Suite 900
3 San Diego, California 92101
Telephone: 619-269-0400
4 Facsimile: 619-269-0401

5 *Attorneys for Receiver,*
Thomas W. McNamara
6
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 FEDERAL TRADE COMMISSION,
12 Plaintiff,

13 v.

14 INTERCONTINENTAL SOLUTIONS
LLC, et al.,
15 Defendants.
16
17

Case No. 8:23-cv-01495-SB (JDEx)

**RECEIVER’S FINAL REPORT
AND APPLICATION FOR: (1)
DISCHARGE OF RECEIVER; AND
(2) APPROVAL OF FINAL FEE
APPLICATION**

JUDGE: Hon. Stanley Blumenfeld, Jr.
CTRM: 6C
DATE: September 6, 2024
TIME: 8:30 a.m.

18
19 Thomas W. McNamara (“Receiver”), by and through his undersigned
20 counsel, submits his Final Report and files an Application for: (1) Discharge of
21 Receiver and (2) Approval of Final Fee Application, which requests an Order from
22 the Court discharging the Receiver and approving the invoices for fees and
23 expenses of the Receiver and his counsel for the 10-month period of October 7,
24 2023 through August 5, 2024.

25 **INTRODUCTION**

26 On August 14, 2023, the Federal Trade Commission (“FTC”) initiated this
27 lawsuit against Intercontinental Solutions LLC, Express Enrollment LLC, Marco
28 Manzi (“Manzi”), Ivan Esquivel (“Esquivel”), and Robert Kissinger (“Kissinger”).

1 The FTC alleged Defendants violated Section 5 of the FTC Act, the Telemarketing
2 Sales Rule, and the Gramm-Leach-Bliley Act. (ECF No. 1.)

3 On August 16, 2023, the Court entered a Temporary Restraining Order (ECF
4 No. 20, “TRO”) appointing Mr. McNamara as the temporary receiver over the
5 Receivership Entities.¹ The Receiver was given a number of duties under the TRO
6 (and later the Preliminary Injunction (“PI”)) including: (1) taking custody and
7 control of the Receivership Entities’ Assets and Documents, PI § XII.B and C;
8 (2) preserving the value of the Receivership Entities’ Assets and Documents, PI
9 § XII.D and E; (3) securing each location from which the Receivership Entities
10 operated their businesses, PI § XII.H; (4) protecting the interests of consumers who
11 transacted business with the Receivership Entities, PI § XII.K; (5) providing an
12 accounting of the Assets and financial condition of the receivership to the Court, PI
13 § XII.L; (6) opening a bank account for funds of the Receivership Entities, serving
14 copies of monthly account statements on all parties and maintaining accurate
15 records of all receipts and expenditures, PI § XII.O and P; (7) providing both the
16 FTC and Defendants access to the Receivership Entities’ premises and documents,
17 PI § XII.Q and R; and (8) suspending the Receivership Entities’ business
18 operations if, in the Receiver’s judgment, they could not continue lawfully and
19 profitably, PI § XII.T.

20 Shortly after appointment, the Receiver made entry into the two locations
21 from which the Defendants were operating and began an investigation. The
22 Receiver’s Preliminary Report was filed with the Court on August 25, 2023 (ECF
23 No. 25.) On August 30, 2023, the Court entered the parties’ Stipulated Preliminary

24 _____
25 ¹ Receivership Entities are defined in the TRO to mean the Corporate Defendants
26 (Intercontinental Solutions LLC, also d/b/a Apex Doc Processing LLC and Apex
27 Doc Processing; Express Enrollment LLC, also d/b/a SLFD Processing; and each
28 of their subsidiaries, affiliates, successors, and assigns) as well as any other entity
that has conducted any business related to Defendants’ marketing of Debt Relief
Services, including receipt of Assets derived from any activity that is the subject of
the Complaint in this matter, and that the Receiver determines is controlled or
owned by any Defendant. *See* TRO Definition K, page 5.

1 Injunction (ECF No. 34, “PI”) which included a confirmation of the Receiver’s
2 continued appointment over the Receivership Entities.

3 Individual Defendants Robert Kissinger and Ivan Esquivel (immediately)
4 and Marco Manzi (eventually) reached a settlement resolving all matters and
5 Stipulated Orders for Permanent Injunction have been entered as to all
6 Defendants.² The Receiver was directed to wind up the Receivership Entities and
7 liquidate all assets within 180 days after entry of the Orders, although any party or
8 the Receiver can request an extension for good cause.

9 With the case settled as to all parties and the Receiver having fulfilled his
10 duties under the PI as described below, the Receiver now presents this Final
11 Report, requests discharge from his duties, and seeks final payment of his fees and
12 expenses.

13 **FINAL REPORT**

14 As described in greater detail below, and in line with his duties, the Receiver
15 secured the sites that the Receivership Entities used for their business; examined
16 business and financial records; prepared a preliminary report assessing whether the
17 business could continue to operate lawfully and profitably, ultimately concluding
18 that it could not; ensured that consumer payments to Defendants were suspended;
19 and provided updates to consumers on the case on an ongoing basis.³

20 **I.**

21 **Immediate Access**

22 At the time of the Receiver’s appointment on August 16, 2023, Receivership
23 Entities were operating from two sites in Orange County, California, one in Santa

24 _____
25 ² Stipulated Orders for Permanent Injunction as to Robert Kissinger, Ivan Esquivel,
26 and Intercontinental Solutions LLC (entered February 16, 2024, ECF No. 94), as to
Express Enrollment LLC (entered February 16, 2024, ECF No. 95), and as to
Marco Manzi (entered March 15, 2024, ECF No. 101).

27 ³ This Final Report is a summary of activities which are detailed more fully in the
28 Receiver’s Preliminary Report (ECF No. 25, filed August 25, 2023), and a First
Interim Fee Application (ECF No. 38, filed October 16, 2023).

1 Ana and the other in the city of Orange. On the afternoon of August 17, 2023,
2 supported by law enforcement officers, the sites were secured, and locksmiths
3 retained to change the locks. Access was provided to counsel and other
4 representatives of the FTC as required by the TRO. Once the site and assets were
5 secure, the Receiver suspended operations in compliance with the TRO and began
6 the process of assessing Defendants' business operations.

7 **A. 1616 E. 4th Street, Suites 220, 260, 265, 275, Santa Ana, California**

8 Located in a two-story, Class C office building in Santa Ana, Receivership
9 Entities Apex Doc Processing LLC ("Apex") and SLFD Processing ("SLFD")
10 (d/b/a's of Intercontinental Solutions LLC and Express Enrollment LLC,
11 respectively) occupied four suites on the second floor of this location (the "4th
12 Street suites"). Signage on suite 220 indicated "Express Enrollments," with an
13 additional posted sign showing the address of the other site in Orange. This suite
14 appeared to be utilized by management personnel and was comprised of five small
15 private offices.

16 Apex's call center occupied suite 260. This suite was configured for six
17 telemarketer carrels and two offices. Telemarketers primarily fielded incoming
18 calls generated by a third-party lead generator. Suites 260 and 265 had an interior
19 connecting door and suite 265 contained three desks dedicated to Processing for
20 Apex and SLFD. The SLFD call center was located in suite 275 although the
21 external signage indicated "Apex Processing." This suite had one office and eight
22 telemarketer carrels.

23 Upon our arrival, 12 employees were present, the other two or three
24 employees absent were either on vacation or just out of the office. None of the
25 three Individual Defendants were present. Of the employees we interviewed, all
26 agreed that Manzi was the boss of Apex and SLFD, even though he worked from
27 the Orange site. Kissinger worked from the 4th Street suites and was in charge of

28 ///

1 Human Resources and some of the accounting. Esquivel also operated from this
2 site and worked in sales.

3 The Receiver's team met with the employees who were willing to be
4 interviewed and began its review of onsite records. After entry of the Preliminary
5 Injunction on August 30, 2023, the onsite records were boxed up and taken to the
6 Receiver's secure storage unit, and the offices were then returned to the landlord.

7 **B. 1100 West Town & Country Road, Suite 1340, Orange, California**

8 Defendants' second base of operations was a modern high-rise Class A
9 building located at 1100 West Town & Country Road, Suite 1340, Orange,
10 California. Exterior signage indicated "Express Enrollments." The suite,
11 approximately 1,198 square feet, was comprised of three small offices and a
12 conference room. At the time of immediate access, Manzi was the only occupant
13 and had positioned himself in the corner office where he could observe all activity
14 at the 4th Street suites via the video system he had recently installed. Four screens
15 projecting real-time security footage allowed him to monitor sales and processing
16 activity remotely. SLFD email traffic clearly showed that Manzi managed the
17 business.

18 When the Receiver's team arrived, a woman identifying herself as Manzi's
19 girlfriend was the only person onsite. She was meeting Danny Merino, the IT
20 Manager for both Apex and SLFD who worked from the 4th Street suites, to be
21 trained in payroll duties after the departure of the payroll staff. We met briefly
22 with Merino, and he confirmed Manzi went to the 4th Street suites a few days each
23 week but now, with the video equipment, could also monitor things remotely from
24 the Town & Country offices. Manzi was also in charge of leads which were
25 obtained from third-party vendors.

26 Merino cooperated and provided passwords and administrative access. Later
27 that same day, Manzi showed up under an arrangement with his counsel and
28 provided additional passwords to gain access to electronic data.

1 The unoccupied offices each had two desks, which were still outfitted with
2 computers. The sales materials found onsite related to the student loan debt relief
3 business and contained the same misrepresentations and advance fee structure as
4 the materials at the 4th Street suites.

5 **II.**

6 **The Receiver’s Investigation of Defendants’ Business**

7 **A. Defendants’ Student Loan Debt Relief Business**

8 The Receiver’s initial investigation confirmed Defendants’ student loan debt
9 relief operations were based upon practices prohibited by the TRO, including
10 advance fees and deceptive representations to consumers.

11 Further, electronic records, hard copy documents found onsite, email
12 accounts, and employee interviews, bore out the fact that these student loan debt
13 relief businesses operated in a form of common enterprise with overlapping
14 ownership and the same business model. Both companies offered Debt Relief
15 Services as defined in the TRO.

16 1. Advance Fees

17 Defendants were taking advance fees in violation of the Telemarketing Sales
18 Rule (16 C.F.R. § 310). The rule prohibits debt relief operators from requesting or
19 receiving payment of any fee unless and until (A) the telemarketer has settled at
20 least one debt pursuant to an agreement executed by the customer, and (B) the
21 customer has made at least one payment pursuant to that agreement.⁴

22 Scripts found onsite walked the consumer through a series of background
23 questions leading to enrollment and encouraging consumers to begin making
24 payments right away because, “the sooner you can make the first payment, the
25 sooner we can get started on your paperwork,” verifying that work would not

26 _____
27 ⁴ There is a narrow exception to this prohibition, known as the escrow exception,
28 which allows debt relief operators to take advance fees through the use of escrow
accounts where very stringent requirements are met. We found no evidence of any
escrow accounts in these businesses.

1 commence until the first payment was received. Another script stated, “once you
2 complete your first installment we will submit your documentation.”⁵

3 Advance fees were the foundation of Defendants’ businesses – real work on
4 renegotiating with the DOE would not begin until the consumer made their first
5 payment. Records from Defendants’ customer relationship management database
6 also confirm this. A consumer’s date of enrollment was recorded in the database
7 with the status indicating “pending 1st payment.” Once that payment was received,
8 sometimes within hours of receipt, the consumer’s paperwork was submitted to
9 their Department of Education loan servicer.

10 The annual recertification required by all student loan income driven
11 modification plans was another opportunity to charge more fees (usually two
12 payments totaling \$350 or one payment of \$297). Recertification scripts created a
13 false sense of urgency, telling consumers they needed to “go over” the
14 recertification “promptly as payments are set to resume soon and we want to avoid
15 you falling out of the program,” implying they might lose their eligibility if they
16 did not process recertification (and pay the extra fee) through them.

17 Therefore, all fees (whether the initial application fee or the annual
18 recertification fees) were unlawful advance fees.

19 2. Misrepresentations and Deceptive Sales Practices

20 Emails, scripts, training materials, sales directives, and consumer complaints
21 all substantiated the deceptive representations embedded in the businesses.

22 Defendants utilized misleading robocall voicemail messages to entice
23 consumers subject to student loan debt to call. Records indicate that millions of
24 these messages were sent out. A sampling of the audio recordings of these
25 messages revealed that none identified Apex or SLFD as the caller, but rather

26 _____
27 ⁵ Consumers were charged between \$875-\$1,500 based on total debt level and
28 services provided – typically paid over six months or so. The backend department
at the 4th Street suites would submit applications to the DOE after receipt of the
first payment.

1 provided an official government-sounding name (Loan Services Center, Loan
2 Processing Center, Financial Processing, or Loan Center) which was “reaching
3 out” regarding “your loan eligibility” and telling the consumer it is “urgent that
4 you respond to this call asap as we don’t want you to miss out on this opportunity.”
5 The callback numbers were Apex and/or SLFD telephone numbers. Defendants
6 were aware that their business practices were unlawful and monitored another FTC
7 action against student loan debt relief companies. When they saw the FCC coming
8 down on student loan debt scam robocalls and robotexts in certain states, they
9 removed those states from their dialer.

10 Email traffic and sales call recordings also documented the deceptions used
11 with consumers when they called. Among other things, consumers were told the
12 loans would come off their credit scores within the first couple of weeks from
13 making the first payment; after six payments the loans would be discharged;
14 Defendants had taken over the loan servicing; and the companies were part of the
15 DOE.

16 3. Common Enterprise

17 Our investigation showed that Receivership Entities and Individual
18 Defendants operated these student loan debt relief businesses in a form of common
19 enterprise with overlapping ownership, indistinguishable business models, and
20 interchangeable scripts and other sales materials. The Individual Defendants
21 played inter-related management roles and were compensated generously.

22 Employees recognized Manzi as the hands-on manager of the Receivership
23 Entities. Corporate filings indicated he was a manager/officer of SLFD and a
24 manager/member of Apex. A review of bank records showed Manzi as the
25 signatory on SLFD accounts.

26 In April 2020, Kissinger appeared in corporate filings as the agent for
27 service of process for SLFD and, in October 2020, Apex’s Articles of

28 ///

1 Incorporation also listed him as the same. Handwritten notes at the 4th Street
2 suites listed both Manzi and Kissinger as “Upper Management.”

3 Although Esquivel is identified as the sole member for Intercontinental LLC
4 (dba Apex Doc Processing) in October 2020 correspondence from the IRS issuing
5 the EIN and as Apex’s CEO in the Fictitious Business Name Statement filed later
6 that month, he generally worked in sales at SLFD where he had an email address
7 since October 2022. The same handwritten notes list Esquivel as Queue
8 Management/Quality Control in the sales division.

9 Email traffic also shows that all three were in regular communication on
10 myriad subjects relating to the business.

11 **III.**

12 **Implementation of the Preliminary Injunction**

13 Defendants stipulated to a preliminary injunction on August 29, 2023, which
14 was entered by the Court on August 30, 2023 (ECF No. 34). The PI confirmed Mr.
15 McNamara’s appointment as permanent receiver and his duties and authorities as
16 previously outlined in the TRO.

17 **A. Vacation of Santa Ana and Orange Receivership Sites**

18 Upon entry of the PI, the Receiver completed the process of closing the
19 Santa Ana and Orange locations and returned the premises to the respective
20 landlords. Onsite records were boxed up, as well as any electronics, and taken to
21 the Receiver’s secure storage location. Partial refunds of the security deposits for
22 each location were negotiated.

23 **B. Taking Custody and Control of Receivership Entities’ Assets**

24 The only saleable receivership asset was a high-end massage chair at the
25 Orange site. This was liquidated with net proceeds to the receivership of \$500.
26 The office furniture and equipment at each site had de minimis value and was
27 abandoned onsite when the offices were closed.

28 ///

1 **C. Consumer Protection Efforts**

2 Upon his appointment, the Receiver proceeded to ensure that all consumer
3 payments to the Receivership Entities were suspended. When complaints were
4 received from a small number of consumers that they were still being charged by
5 Defendants after entry of the TRO, we contacted the merchant processor to rectify
6 the situation and ensure that consumers received refunds.

7 Defendants' active websites were redirected to the Receiver's website⁶ and
8 updated outgoing messages were recorded on the Receivership Entities' telephones
9 to notify consumers of the FTC action and receivership. Utilizing Defendants'
10 existing DebtPayPro database, the Receiver was able to send emails to the universe
11 of enrolled consumers notifying them of the lawsuit, recommending that they
12 contact their student loan servicers, and directing them to the Receiver's website
13 for further details. The Receiver's office continues to field inquiries from
14 consumers.

15 **IV.**

16 **Receivership Accounting**

17 Attached as Exhibit 1 is a Receipts and Disbursements Summary for the
18 receivership period through August 5, 2024. It shows aggregate receipts of
19 \$192,347.94, less disbursements of \$146,784.50, for net cash as of this Final
20 Report of \$45,563.44.

21 **APPLICATION FOR DISCHARGE AND**
22 **APPROVAL OF FINAL FEE APPLICATION**

23 The Application for Discharge is made on the grounds that the underlying
24 case has now been resolved as to all Defendants, and the Receiver has completed
25 his duties as defined in the TRO and the PI.

26 ///

27 _____
28 ⁶ <https://regulatoryresolutions.com/case/federal-trade-commission-v-intercontinental-solutions-llc-et-al-express-enrollment-receivership/>.

1 The Final Fee Application is made pursuant to ¶ XII.F of the PI which
2 authorizes the Receiver to “[c]hoose, engage, and employ attorneys, accountants,
3 appraisers, and other independent contractors and technical specialists, as the
4 Receiver deems advisable or necessary in the performance of duties and
5 responsibilities under the authority granted by this Order;” and ¶ XVIII, which
6 provides that the “Receiver and all personnel hired by the Receiver as herein
7 authorized, including counsel to the Receiver and accountants, are entitled to
8 reasonable compensation for the performance of duties pursuant to this Order and
9 for the cost of actual out-of-pocket expenses incurred by them, from the Assets
10 now held by, in the possession or control of, or which may be received by, the
11 Receivership Entities.” This fee application seeks approval to pay fees and
12 expenses for services during the 10-month period October 7, 2023 through August
13 5, 2024 as follows: \$14,988.00 fees and \$3,045.61 expenses to the Receiver and
14 his staff payable to TWM Receiverships Inc., dba Regulatory Resolutions; and
15 \$14,402.00 fees and \$114.71 expenses to Receiver’s counsel McNamara Smith
16 LLP.

17 The Final Fee Application also seeks authorization to hold back \$5,000.00 as
18 a reserve for final administrative costs, *e.g.*, document and electronics storage
19 costs, removal and destruction of computer hard drives, and document destruction
20 costs, which may be expended without further order of the Court, and after 120
21 days any unexpended funds from that reserve shall be disbursed to Plaintiff Federal
22 Trade Commission. If the invoices in this Final Fee Application are approved for
23 payment in full, and the requested reserve of \$5,000.00 is approved, net cash for
24 immediate transfer to the FTC will be \$8,013.12.

25 ///
26 ///
27 ///
28 ///

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

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of August, 2024, 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.

/s/ Logan D. Smith
Logan D. Smith
Attorney for Receiver,
Thomas W. McNamara