

LOGGED

2015 MAR 31 AM 11:28

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

1 JONATHAN E. NUECHTERLEIN
 2 General Counsel
 3 CHARLES A. HARWOOD
 4 Regional Director
 5 ELEANOR DURHAM, MD Bar
 6 edurham@ftc.gov
 7 MAXINE R. STANSELL, WA Bar # 9418
 8 mstansell@ftc.gov
 9 Federal Trade Commission
 10 915 2nd Ave., Suite 2896, Seattle, WA 98174
 11 (206) 220-4476 (Durham); (206) 220-4474 (Stansell)
 12 (206) 220-6366 (fax)
 13 BARBARA CHUN, CA Bar # 186907 (Local counsel)
 14 bchun@ftc.gov
 15 10877 Wilshire Blvd., Suite 700, Los Angeles, CA 90024
 16 (310) 824-4312 (Chun); (310) 824-4330 (fax)
 17 ATTORNEYS FOR PLAINTIFF FEDERAL TRADE COMMISSION

18 UNITED STATES DISTRICT COURT
 19 CENTRAL DISTRICT OF CALIFORNIA

20 FEDERAL TRADE COMMISSION,

21 Plaintiff,

22 vs.

23 WEALTH EDUCATORS, INC., also
 24 d/b/a Family 1st Preservations; Family
 25 1st Home Loans; Legal Affiliates &
 26 Associates; Legal Educators & Co.;
 27 Family 1st Home Preservation; Legal
 28 Educators USA & Co.; Stargate Mutual
 & Associates; Providence Financial
 Advocates; and Providence Financial
 Audits; and VERONICA SESMA, also
 d/b/a Sesma Consulting,

Defendants.

CV15-2357 STO JEMX

[PROPOSED]
 EX PARTE TEMPORARY
 RESTRAINING ORDER WITH
 ASSET FREEZE, AND OTHER
 RELIEF, AND ORDER TO SHOW
 CAUSE WHY PRELIMINARY
 INJUNCTION SHOULD NOT ISSUE

FILED UNDER SEAL

1 Plaintiff, the Federal Trade Commission (“FTC”), pursuant to Sections 13(b)
2 and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and
3 57b, and the 2009 Omnibus Appropriations Act, Pub. L. No. 111-8, § 626, 123
4 Stat. 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card
5 Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24,
6 § 511, 123 Stat. 1734, 1763-64 (May 22, 2009) (“Credit Card Act”), and amended
7 by the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of
8 2010, Pub. L. No. 111-203, § 1097, 124 Stat. 1376, 2102-03 (July 21, 2010)
9 (“Dodd-Frank Act”), 12 U.S.C. § 5538, has filed a Complaint for preliminary and
10 permanent injunctive relief, rescission or reformation of contracts, restitution, the
11 refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief
12 for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act,
13 15 U.S.C. § 45(a), and the Mortgage Assistance Relief Services Rule (“MARS
14 Rule”), 16 C.F.R. Part 322, recodified as Mortgage Assistance Relief Services
15 (“Regulation O”), 12 C.F.R. Part 1015, in connection with the marketing and sale
16 of mortgage assistance relief services, and has applied for a temporary restraining
17 order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure.

18 FINDINGS

19 This Court, having considered the FTC’s Complaint, *ex parte* application,
20 declarations, exhibits, and memorandum filed in support of the FTC’s application,
21 and now being advised in the premises, finds that:

22 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
23 §§ 1331, 1337(a), and 1345; 15 U.S.C. §§ 45(a), 53(b), and 57b, and Section 626
24 of the Omnibus Act, as clarified by Section 511 of the Credit Card Act, and
25 amended by Section 1097 of the Dodd-Frank act, 12 U.S.C. § 5538.

26 2. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2),
27 (b)(3), (c)(1), (c)(2), and (d) and 15 28 U.S.C. § 53(b).

1 3. There is good cause to believe that Defendants have engaged in, and
2 are likely to engage in the future in, acts or practices that violate Section 5(a) of the
3 FTC Act, 15 U.S.C. § 45(a), and Regulation O, and that the FTC is therefore likely
4 to prevail on the merits of this action. Based on the FTC's memorandum in
5 support of its motion for a TRO and the supporting evidence, it is likely that
6 Defendants have engaged in illegal activity in connection with the advertising,
7 marketing, promotion, offering for sale, sale, or provision of mortgage assistance
8 relief services.

9 4. There is good cause to believe that consumers will suffer immediate
10 and continuing harm unless Defendants are restrained and enjoined by Order of
11 this Court.

12 5. There is good cause to believe that immediate and irreparable damage
13 to the Court's ability to grant effective final relief for consumers in the form of
14 monetary restitution will occur from the sale, transfer, assignment, or other
15 disposition or concealment by Defendants of their assets or records unless
16 Defendants are immediately restrained and enjoined by Order of this Court.
17 Therefore, there is good cause for relieving the Commission of the duty to provide
18 Defendants with prior notice of the Commission's motion and for entry of the
19 ancillary relief contained in this Order, including freezing Defendants' assets and
20 prohibiting Defendants from destroying records.

21 6. Weighing the equities and considering the Commission's likelihood of
22 ultimate success, the entry of this temporary restraining order with asset freeze and
23 other equitable relief is in the public interest.

24 7. There is good cause for issuing this Order pursuant to Federal Rule of
25 Civil Procedure 65(b).

26 8. Under Local Rule 7-19, the interests of justice require that Plaintiff's
27 *ex parte* application be heard without notice to Defendants, and the notice
28 requirement of Local Rule 7-19.1 is hereby waived.

1 e. performing marketing, billing, or payment services of any kind;

2 or

3 f. acting or serving as an owner, officer, director, manager, or
4 principal of any entity.

5 3. **“Commercial communication”** means any written or oral statement,
6 illustration, or depiction, whether in English or any other language, that is designed
7 to effect a sale or create interest in purchasing any service, plan, or program,
8 whether it appears on or in a label, package, package insert, radio, television, cable
9 television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book
10 insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit
11 card, point of purchase display, film, slide, audio program transmitted over a
12 telephone system, telemarketing script, onhold script, upsell script, training
13 materials provided to telemarketing firms, program-length commercial
14 (“infomercial”), the internet, cellular network, or any other medium. Promotional
15 materials and items and Web pages are included in the term “commercial
16 communication.”

17 4. **“Consumer-specific commercial communication”** means a
18 commercial communication that occurs prior to the consumer agreeing to permit
19 the provider to seek offers of mortgage assistance relief on behalf of the consumer,
20 or otherwise agreeing to use the mortgage assistance relief service, and that is
21 directed at a specific consumer.

22 5. **“General commercial communication”** means a commercial
23 communication that occurs prior to the consumer agreeing to permit the provider to
24 seek offers of mortgage assistance relief on behalf of the consumer, or otherwise
25 agreeing to use the mortgage assistance relief service, and that is not directed at a
26 specific consumer.

1 6. **“Defendants”** means the Individual Defendant and the Corporate
2 Defendant, individually, collectively, or in any combination, and each of them by
3 whatever names each might be known.

4 a. **“Corporate Defendant”** means Wealth Educators, Inc., and
5 its successors, assigns, affiliates, or subsidiaries, and each of
6 them by whatever names each might be known.

7 b. **“Individual Defendant”** means Veronica Sesma and any other
8 names by which she might be known.

9 7. **“Document”** and **“electronically stored information”** are
10 synonymous in meaning and equal in scope to the usage of the terms in Rule 34(a)
11 of the Federal Rules of Civil Procedure and include, but are not limited to:

12 a. The original or a true copy of any written, typed, printed,
13 electronically stored, transcribed, taped, recorded, filmed,
14 punched, or graphic matter or other data compilations of any
15 kind, including, but not limited to, letters, email or other
16 correspondence, messages, memoranda, interoffice
17 communications, notes, reports, summaries, manuals, magnetic
18 tapes or discs, tabulations, books, records, checks, invoices,
19 work papers, journals, ledgers, statements, returns, reports,
20 schedules, or files; and

21 b. Any electronically stored information stored on any cell
22 phones, disks, hard drives, Blackberrys, flash drives, personal
23 digital assistants (“PDAs”), desktop personal computer and
24 workstations, laptops, notebooks, and other portable computers,
25 or other electronic storage media, whether assigned to
26 individuals or in pools of computers available for shared use, or
27 personally owned but used for work-related purposes; backup
28 disks and tapes, archive disks and tapes, and other forms of

1 offline storage, whether stored onsite with the computer used to
2 generate them, stored offsite in another company facility, or
3 stored, hosted, or otherwise maintained offsite by a third party;
4 and computers and related offline storage used by Defendants
5 or Defendants' participating associates, which may include
6 persons who are not employees of the company or who do not
7 work on company premises.

8 8. **“Electronic data host”** means any person or entity that stores, hosts,
9 or otherwise maintains electronically stored information.

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

14 10. **“Material fact”** means any fact that is likely to affect a person's
15 choice of, or conduct regarding, goods, or services.

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

- 20 a. stopping, preventing, or postponing any mortgage or deed of
21 trust foreclosure sale for the consumer's dwelling, any
22 repossession of the consumer's dwelling, or otherwise saving
23 the consumer's dwelling from foreclosure or repossession;
- 24 b. negotiating, obtaining, or arranging a modification of any term
25 of a dwelling loan, including a reduction in the amount of
26 interest, principal balance, monthly payments, or fees;
- 27
28

- 1 c. obtaining any forbearance or modification in the timing of
2 payments from any dwelling loan holder or servicer on any
3 dwelling loan;
- 4 d. negotiating, obtaining, or arranging any extension of the period
5 of time within which the consumer may (i) cure his or her
6 default on a dwelling loan, (ii) reinstate his or her dwelling
7 loan, (iii) redeem a dwelling, or (iv) exercise any right to
8 reinstate a dwelling loan or redeem a dwelling;
- 9 e. obtaining any waiver of an acceleration clause or balloon
10 payment contained in any promissory note or contract secured
11 by any dwelling; or
- 12 f. negotiating, obtaining, or arranging (i) a short sale of a
13 dwelling, (ii) a deed-in-lieu of foreclosure, or (iii) any other
14 disposition of a dwelling other than a sale to a third party who
15 is not the dwelling loan holder.

16 The foregoing shall include any manner of claimed assistance, including, but not
17 limited to, auditing or examining a consumer's mortgage or home loan application
18 and offering to provide or providing legal services.

19 12. "Person" means a natural person, organization, or other legal entity,
20 including a corporation, partnership, proprietorship, association, cooperative, or
21 any other group or combination acting as an entity.

22 **I.**

23 **PROHIBITION ON COLLECTION OF ADVANCE FEES**

24 **IT IS THEREFORE ORDERED** that Defendants and their officers,
25 agents, servants, employees, and attorneys, and those persons or entities in active
26 concert or participation with any of them who receive actual notice of this Order
27 by personal service, facsimile transmission, email, or otherwise, whether acting
28 directly or through any corporation, subsidiary, division, or other device, in

1 connection with providing, offering to provide, or arranging for others to provide
2 any mortgage assistance relief service, are hereby temporarily restrained and
3 enjoined from requesting or receiving payment of any fee or other consideration
4 before the consumer has executed a written agreement between the consumer and
5 the consumer's dwelling loan holder or servicer incorporating the offer of
6 mortgage assistance relief that a Defendant obtained from the consumer's dwelling
7 loan holder or servicer on the consumer's behalf, in violation of Section 1015.5(a)
8 of Regulation O, 12 C.F.R. § 1015.5(a).

9 **II.**

10 **REPRESENTATIONS PROHIBITED BY SECTION 5 OF THE FTC ACT**

11 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
12 servants, employees, and attorneys, and those persons or entities in active concert
13 or participation with any of them who receive actual notice of this Order by
14 personal service, facsimile transmission, email, or otherwise, whether acting
15 directly or through any corporation, subsidiary, division, or other device, in
16 connection with the advertising, marketing, promotion, offering for sale, or sale of
17 any mortgage assistance relief service, are hereby temporarily restrained and
18 enjoined from engaging in, or assisting others in engaging in, the following
19 conduct:

- 20 A. Misrepresenting, directly or indirectly, expressly or by implication,
21 that Defendants typically will obtain mortgage loan modifications for
22 consumers that will make consumers' payments substantially more
23 affordable, substantially lower their interest rates, or help them avoid
24 foreclosure;
- 25 B. Misrepresenting, directly or indirectly, expressly or by implication,
26 that Defendants will provide legal services, including forensic audits;
27 and
28

1 C. Misrepresenting, directly or indirectly, expressly or by implication,
2 that Defendants will refund the consumer's fee if Defendants fail to
3 obtain the promised mortgage loan modification.

4 **III.**

5 **REPRESENTATIONS PROHIBITED AND DISCLOSURES REQUIRED**
6 **BY REGULATION O**

7 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
8 servants, employees, and attorneys, and those persons or entities in active concert
9 or participation with any of them who receive actual notice of this Order by
10 personal service, facsimile transmission, email, or otherwise, whether acting
11 directly or through any corporation, subsidiary, division, or other device, in
12 connection with providing, offering to provide, or arranging for others to provide
13 any mortgage assistance relief service, are hereby temporarily restrained and
14 enjoined from engaging in the following conduct:

15 A. Representing, expressly or by implication, in connection with the
16 advertising, marketing, promotion, offering for sale, sale, or
17 performance of any mortgage assistance relief service, that a
18 consumer cannot or should not contact or communicate with his or her
19 lender or servicer, in violation of Section 1015.3(a) of Regulation O,
20 12 C.F.R. § 1015.3(a);

21 B. Misrepresenting, expressly or by implication, any material aspect of
22 any mortgage assistance relief service, including, but not limited to:
23 1. The likelihood of negotiating, obtaining, or arranging any
24 represented service or result, including, but not limited to, the
25 likelihood of negotiating, obtaining, or arranging a modification
26 of any term of a dwelling loan, including a reduction in the
27 amount of interest, principal balance, monthly payments, or
28

1 fees, in violation of Section § 1015.3(b)(1) of Regulation O,
2 12 C.F.R. § 1015.3(b)(1);

3 2. The amount of time it will take the mortgage assistance relief
4 service provider to accomplish any represented service or
5 result, in violation of Section 1015.3(b)(2) of Regulation O,
6 12 C.F.R. § 1015.3(b)(2);

7 3. That a mortgage assistance relief service is affiliated with,
8 endorsed or approved by, or otherwise associated with the
9 government or the maker, holder, or servicer of the consumer's
10 dwelling loan, in violation of Section 1015.3(b)(3) of
11 Regulation O, 12 C.F.R. § 1015.3(b)(3);

12 4. The terms or conditions of any refund, cancellation, exchange,
13 or repurchase policy for a mortgage assistance relief service,
14 including, but not limited to, the likelihood of obtaining a full
15 or partial refund, or the circumstances in which a full or partial
16 refund will be granted, for a mortgage assistance relief service,
17 in violation of Section 1015.3(b)(6) of Regulation O, 12 C.F.R.
18 § 1015.3(b)(6); or

19 5. That the consumer will receive legal representation, in violation
20 of Section 1015.3(b)(8) of Regulation O, 12 C.F.R.
21 § 1015.3(b)(8);

22 C. Failing to disclose the following information in all general
23 commercial communications and all consumer-specific commercial
24 communications:

25 1. "[Name of Company] is not associated with the government,
26 and our service is not approved by the government or your
27 lender," in violation of Section 1015.4(a)(1) and (b)(2) of
28 Regulation O, 12 C.F.R. § 1015.4(a)(1) and (b)(2); and

1 2. In cases where the mortgage assistance relief service provider
2 has represented, expressly or by implication, that consumers
3 will receive any service or result set forth in paragraphs (2)
4 through (6) of the definition of “Mortgage Assistance Relief
5 Service,” Section 1015.2 of Regulation O, 12 C.F.R. § 1015.2,
6 “Even if you accept this offer and use our service, your lender
7 may not agree to change your loan,” in violation of Section
8 1015.4(a)(2) and (b)(3) of Regulation O, 12 C.F.R.
9 § 1015.4(a)(2) and (b)(3).

10 D. Failing to disclose the following information in all consumer-specific
11 commercial communications: “You may stop doing business with us
12 at any time. You may accept or reject the offer of mortgage assistance
13 we obtain from your lender [or servicer]. If you reject the offer, you
14 do not have to pay us. If you accept the offer, you will have to pay us
15 [insert amount or method for calculating the amount] for our
16 services,” in violation of Section 1015.4(b)(1) of Regulation O,
17 12 C.F.R. § 1015.4(b)(1). For the purposes of this section, the amount
18 “you will have to pay” shall consist of the total amount the consumer
19 must pay to purchase, receive, and use all of the mortgage assistance
20 relief services that are the subject of the sales offer, including but not
21 limited to, all fees and charges.

22 IV.

23 PRESERVATION OF RECORDS AND TANGIBLE THINGS

24 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
25 servants, employees, and attorneys, and those persons or entities in active concert
26 or participation with any of them who receive actual notice of this Order by
27 personal service, facsimile transmission, email, or otherwise, whether acting
28 directly or through any corporation, subsidiary, division, or other device, are

1 hereby temporarily enjoined from destroying, erasing, mutilating, concealing,
2 altering, transferring, or otherwise disposing of, in any manner, directly or
3 indirectly, any documents or records that relate to the business practices, or
4 business or personal finances, of Defendants, or other entity directly or indirectly
5 under the control of Defendants.

6 **V.**

7 **DISABLEMENT OF WEBSITES**

8 **IT IS FURTHER ORDERED** that immediately upon service of the Order
9 upon them and pending determination of the FTC's request for a preliminary
10 injunction, (1) any person hosting any Internet website for, or on behalf of, any
11 Defendant, and (2) Defendants and their officers, agents, servants, employees, and
12 attorneys, and those persons or entities in active concert or participation with any
13 of them who receive actual notice of this Order by personal service, facsimile
14 transmission, email, or otherwise, whether acting directly or through any
15 corporation, subsidiary, division, or other device, shall:

16 A. Immediately do whatever is necessary to ensure that any Internet
17 website used by Defendants for the advertising, marketing, promotion,
18 offering for sale, or sale of any mortgage assistance relief service,
19 including, but not limited to family1sthps.com; legaleducatorsco.org;
20 legaleducatorsusa.org; thelegaleducators.com; smassociates.org;
21 pfadvocates.com; and pfaudits.com, and containing statements or
22 representations prohibited by Sections I, II, and III of this Order,
23 cannot be accessed by the public;

24 B. Prevent the destruction or erasure of any Internet website used by
25 Defendants for the advertising, marketing, promotion, offering for
26 sale, or sale of any mortgage assistance relief service, by preserving
27 such website in the format in which it is maintained currently; and
28

1 C. Immediately notify in writing counsel for the FTC of any other
2 Internet website operated or controlled by any Defendant not listed in
3 Subsection V.A above.

4 **VI.**

5 **SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

6 **IT IS FURTHER ORDERED** that, pending determination of the FTC's
7 request for a preliminary injunction, any domain name registrar shall suspend the
8 registration of any Internet website used by Defendants for the advertising,
9 marketing, promotion, offering for sale, or sale of any mortgage assistance relief
10 service, and containing statements or representations prohibited by Sections I, II,
11 and III of this Order, including, but not limited to, family1sthps.com;
12 legaleducatorsco.org; legaleducatorsusa.org; thelegaeducators.com;
13 smassociates.org; pfadvocates.com; and pfaudits.com, and provide immediate
14 notice to counsel for the FTC of any other Internet domain names registered or
15 controlled by any Defendants.

16 **VII.**

17 **ASSET FREEZE**

18 **IT IS FURTHER ORDERED** that the Corporate Defendant, and its
19 officers, agents, servants, employees, and attorneys, and all persons or entities
20 directly or indirectly under the control of any of them, including any financial
21 institution, and all other persons or entities in active concert or participation with
22 any of them who receive actual notice of this Order by personal service, facsimile
23 transmission, email, or otherwise, are hereby temporarily restrained and enjoined
24 from directly or indirectly:

25 A. Selling, liquidating, assigning, transferring, converting, loaning,
26 hypothecating, disbursing, gifting, conveying, encumbering, pledging,
27 concealing, dissipating, spending, withdrawing, or otherwise
28 disposing of any funds, real or personal property, or other assets or

1 any interest therein, wherever located, including any assets outside the
2 territorial United States, that are:

- 3 1. in the actual or constructive possession of the Corporate
4 Defendant; or
5 2. owned or controlled by, or held, in whole or in part for the
6 benefit of, or subject to access by, or belonging to, the
7 Corporate Defendant; or in the actual or constructive possession
8 of, or owned or controlled by, or subject to access by, or belong
9 to, any corporation, partnership, trust, or other entity directly or
10 indirectly owned, managed, or under the control of the
11 Corporate Defendant;

12 B. Opening, or causing to be opened, any safe deposit boxes titled in the
13 name of the Corporate Defendant, or subject to access by the
14 Corporate Defendant;

15 C. Incurring charges on any credit card, stored value card, debit card, or
16 charge card issued in the name, singly or jointly, of the Corporate
17 Defendant or any other entity directly or indirectly owned, managed,
18 or controlled by the Corporate Defendant;

19 D. Obtaining a personal or secured loan for or on behalf of the Corporate
20 Defendant; or

21 E. Cashing any checks from consumers, clients, or customers of the
22 Corporate Defendant; and

23 F. The funds, property, and assets affected by this Section shall include:
24 (a) all assets of the Corporate Defendant as of the time this Order is
25 entered, including, without limitation, accounts held by Wealth
26 Educators, Inc., also d/b/a Family 1st Preservations; Family 1st Home
27 Loans; Legal Affiliates & Associates; Legal Educators & Co.; Family
28 1st Home Preservation; Legal Educators USA & Co.; Stargate Mutual

1 & Associates; Providence Financial Advocates; and Providence
2 Financial Audits, to the extent it may hold corporate accounts on
3 which Veronica Sesma is a signatory, and (b) those assets obtained or
4 received after entry of this Order that are derived from the actions
5 alleged in Plaintiff's Complaint. This Section does not prohibit the
6 Repatriation of Foreign Assets, as specifically required in Section XI
7 of this Order.

8 VIII.

9 RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES

10 **IT IS FURTHER ORDERED** that, pending determination of the FTC's
11 request for a preliminary injunction, any financial or brokerage institution,
12 business entity, electronic data host, or person served with a copy of this Order that
13 holds, controls, or maintains custody of any account, document, electronically
14 stored information, or asset of, on behalf of, in the name of, for the benefit of,
15 subject to withdrawal by, subject to access or use by, or under the signatory power
16 of any Defendant or other party subject to Section VII above, or has held,
17 controlled, or maintained any such account, document, electronically stored
18 information, or asset at any time since January 1, 2012, shall:

- 19 A. Hold, preserve, and retain within such entity's or person's control, and
20 prohibit the withdrawal, removal, alteration, assignment, transfer,
21 pledge, hypothecation, encumbrance, disbursement, dissipation,
22 conversion, sale, liquidation, or other disposal of such account,
23 document, electronically stored information, or asset held by or under
24 such entity's or person's control, except as directed by further order of
25 the Court or as directed in writing by the Plaintiff regarding accounts,
26 documents, or assets held in the name of or benefit of any Defendant;
27
28

- 1 B. Deny access to any safe deposit boxes that are either titled in the
2 name, individually or jointly, or subject to access by, any Defendant
3 or other party subject to Section VII above;
- 4 C. Provide to counsel for the FTC, within one (1) business day, a sworn
5 statement setting forth:
- 6 1. the identification of each account or asset titled in the name,
7 individually or jointly, or held on behalf of or for the benefit of,
8 subject to withdrawal by, subject to access or use by, or under
9 the signatory power of any Defendant or other party subject to
10 Section VII above, whether in whole or in part;
 - 11 2. the balance of each such account, or a description of the nature
12 and value of such asset, as of the close of business on the day
13 on which this Order is served;
 - 14 3. the identification of any safe deposit box that is either titled in
15 the name of, individually or jointly, or is otherwise subject to
16 access or control by, any Defendant or other party subject to
17 Section VII above, whether in whole or in part; and
 - 18 4. if the account, safe deposit box, or other asset has been closed
19 or removed, the date closed or removed, the balance on said
20 date, and the name or the person or entity to whom such
21 account or other asset was remitted;
- 22 D. Provide to counsel for the FTC within three (3) business days after
23 being served with a request, copies of all documents pertaining to
24 such account or asset, including, but not limited to, originals or copies
25 of account applications, account statements, signature cards, checks,
26 drafts, deposit tickets, transfers to and from the accounts, all other
27 debit and credit instruments or slips, currency transaction reports,
28

1 1099 forms, and safe deposit box logs; provided that such institution
2 or custodian may charge a reasonable fee; and

3 E. Cooperate with all reasonable requests of the Plaintiff relating to this
4 Order's implementation;

5 F. The accounts subject to this provision include: (a) all assets of each
6 Defendant deposited as of the time this Order is entered, and (b) those
7 assets deposited after entry of this Order that are derived from the
8 actions alleged in Plaintiff's Complaint. This Section does not
9 prohibit the Repatriation of Foreign Assets, as specifically required in
10 Section XI of this Order; and

11 G. The FTC is granted leave, pursuant to Fed. R. Civ. P. 45, to subpoena
12 documents immediately from any financial or brokerage institution,
13 business entity, electronic data host, or person served with a copy of
14 this Order that holds, controls, or maintains custody of any account,
15 document, electronically stored information, or asset of, on behalf of,
16 in the name of, for the benefit of, subject to withdrawal by, subject to
17 access or use by, or under the signatory power of any Defendant or
18 other party subject to Section VII above, or has held, controlled, or
19 maintained any such account, document, electronically stored
20 information, or asset at any time since January 1, 2012, and such
21 financial or brokerage institution, business entity, electronic data host,
22 or person shall respond to such subpoena within three (3) business
23 days after service.

24 **IX.**

25 **FINANCIAL STATEMENTS AND ACCOUNTING**

26 **IT IS FURTHER ORDERED** that each Defendant, within three (3)
27 business days of service of this Order, shall prepare and deliver to counsel for the
28 FTC:

- 1 A. For the Individual Defendant, a completed financial statement
2 accurate as of the date of service of this Order upon such Defendant
3 on the form of Attachment A to this Order captioned "Financial
4 Statement of Individual Defendant";
- 5 B. For the Corporate Defendant, a completed financial statement
6 accurate as of the date of service of this Order upon such Defendant
7 (unless otherwise agreed upon with FTC counsel) in the form of
8 Attachment B to this Order captioned "Financial Statement of
9 Corporate Defendant"; and
- 10 C. For all Defendants, a list of all officers and directors of the Corporate
11 Defendant and all other individuals or entities with authority to direct
12 the operations of the Corporate Defendant or withdraw money from
13 the account of the Corporate Defendant.

X.

CONSUMER CREDIT REPORTS

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish to the FTC a consumer report concerning any Defendant.

XI.

REPATRIATION OF FOREIGN ASSETS

IT IS FURTHER ORDERED that, within five (5) business days following the service of this Order, each Defendant shall:

- g. Provide counsel for the FTC with a full accounting of all assets, accounts, funds, and documents outside of the territory of the United States that are held either: (1) by Defendants; (2) for their benefit; (3) in trust by or for them, individually or jointly; or (4) under their direct or indirect control, individually or jointly

- 1 h. Provide counsel for the FTC with a full accounting of all assets,
2 accounts, funds, and documents outside of the territory of the
3 United States that are held either: (1) by Defendants; (2) for
4 their benefit; (3) in trust by or for them, individually or jointly;
5 or (4) under their direct or indirect control, individually or
6 jointly;
- 7 i. Transfer to the territory of the United States all assets, accounts,
8 funds, and documents in foreign countries held either: (1) by
9 Defendants; (2) for their benefit; (3) in trust by or for them,
10 individually or jointly; or (4) under their direct or indirect
11 control, individually or jointly; and
- 12 j. Provide the FTC access to all records of accounts or assets of
13 the Corporate Defendant and Individual Defendant held by
14 financial institutions located outside the territorial United States
15 by signing the Consent to Release of Financial Records
16 attached to this Order as Attachment C.
- 17 k. All repatriated assets, accounts, funds, and documents are
18 subject to Section VII of this Order.

19 **XII.**

20 **NONINTERFERENCE WITH REPATRIATION**

21 **IT IS FURTHER ORDERED** that Defendants are hereby temporarily
22 restrained and enjoined from taking any action, directly or indirectly, that may
23 result in the encumbrance or dissipation of foreign assets, or in the hindrance of the
24 repatriation required by the preceding Section XI of this Order, including, but not
25 limited to:

- 26 A. Sending any statement, letter, fax, email, or wire transmission, or
27 telephoning or engaging in any other act, directly or indirectly, that
28 results in a determination by a foreign trustee or other entity that a

1 “duress” event has occurred under the terms of a foreign trust
2 agreement until such time that all assets have been fully repatriated
3 pursuant to Section XI of this Order; or

- 4 B. Notifying any trustee, protector, or other agent of any foreign trust or
5 other related entities of either the existence of this Order, or of the fact
6 that repatriation is required pursuant to a court order, until such time
7 that all assets have been fully repatriated pursuant to Section XI of
8 this Order.

9 **XIII.**

10 **PROHIBITION ON RELEASE OF CONSUMER INFORMATION**

11 **IT IS FURTHER ORDERED** that, except as required by a law
12 enforcement agency, law, regulation, or court order, Defendants, and their officers,
13 agents, servants, employees, and attorneys, and all other persons in active concert
14 or participation with any of them who receive actual notice of this Order by
15 personal service, facsimile transmission, email, or otherwise, are temporarily
16 restrained and enjoined from disclosing, using, or benefitting from consumer
17 information, including the name, address, telephone number, email address, social
18 security number, other identifying information, or any data that enables access to a
19 consumer’s account (including a credit card, bank account, or other financial
20 account), of any person which any Defendant obtained prior to entry of this Order
21 in connection with any mortgage assistance relief service.

22 **XIV.**

23 **STAY OF ACTIONS**

24 **IT IS FURTHER ORDERED** that:

- 25 A. Except by leave of this Court, during pendency of the asset freeze
26 ordered herein, Defendants and all other persons and entities be and
27 hereby are stayed from taking any action to establish or enforce any
28 claim, right, or interest for, against, on behalf of, in, or in the name of,

1 the Corporate Defendant, or any of its subsidiaries, affiliates,
2 partnerships, or assets including, but not limited to, the following
3 actions:

- 4 1. Commencing, prosecuting, continuing, entering, or enforcing
5 any suit or proceeding, except that such actions may be filed to
6 toll any applicable statute of limitations;
- 7 2. Accelerating the due date of any obligation or claimed
8 obligation; filing or enforcing any lien; taking or attempting to
9 take possession, custody, or control of any asset; attempting to
10 foreclose, forfeit, alter, or terminate any interest in any asset,
11 whether such acts are part of a judicial proceeding, are acts of
12 self-help, or otherwise; or
- 13 3. Executing, issuing, serving, or causing the execution, issuance
14 or service of, any legal process, including, but not limited to,
15 attachments, garnishments, subpoenas, writs of replevin, writs
16 of execution, or any other form of process whether specified in
17 this Order or not.

18 B. This Section does not stay:

- 19 1. The commencement or continuation of a criminal action or
20 proceeding;
- 21 2. The commencement or continuation of an action or proceeding
22 by the State Bar of California to enforce its police or regulatory
23 power;
- 24 3. The commencement or continuation of an action or proceeding
25 by a governmental unit to enforce such governmental unit's
26 police or regulatory power;

- 1 4. The enforcement of a judgment, other than a money judgment,
- 2 obtained in an action or proceeding by a governmental unit to
- 3 enforce such governmental unit's police or regulatory power; or
- 4 5. The issuance to a Defendant of a notice of tax deficiency.

5 **XV.**

6 **LIMITED EXPEDITED DISCOVERY**

7 **IT IS FURTHER ORDERED** that the FTC is granted leave to conduct
8 certain expedited discovery, and that, commencing with the time and date of this
9 Order, in lieu of the time periods, notice provisions, and other requirements of
10 Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, and applicable
11 Local Rules, the FTC is granted leave to:

- 12 A. Take the deposition, on three (3) days' notice, of any person or entity,
- 13 whether or not a party, for the purpose of discovering: (1) the nature,
- 14 location, status, and extent of assets of Defendants or their affiliates or
- 15 subsidiaries; (2) the nature and location of documents and business
- 16 records of Defendants or their affiliates or subsidiaries; and
- 17 (3) compliance with this Order. The limitations and conditions set
- 18 forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding
- 19 subsequent depositions shall not apply to depositions taken pursuant
- 20 to this Section. In addition, any such depositions taken pursuant to
- 21 this Section shall not be counted toward the ten-deposition limit set
- 22 forth in Fed. R. Civ. P. 30(a)(2)(A)(i) and 31(a)(2)(A)(i) and shall not
- 23 preclude the FTC from subsequently deposing the same person or
- 24 entity in accordance with the Federal Rules of Civil Procedure.
- 25 Service of discovery upon a party, taken pursuant to this Section, shall
- 26 be sufficient if made by facsimile, email, or by overnight delivery.
- 27 Any deposition taken pursuant to this Subsection that has not been
- 28

1 reviewed and signed by the deponent may be used by any party for
2 purposes of the preliminary injunction hearing;

3 B. Serve upon parties requests for production of documents or inspection
4 that require production or inspection within three (3) calendar days of
5 service, and may serve subpoenas upon non-parties that direct
6 production or inspection within five (5) calendar days of service, for
7 the purpose of discovering: (1) the nature, location, status, and extent
8 of assets of Defendants or their affiliates or subsidiaries; (2) the nature
9 and location of documents and business records of Defendants or their
10 affiliates or subsidiaries; and (3) compliance with this Order, provided
11 that twenty-four (24) hours' notice shall be deemed sufficient for the
12 production of any such documents that are maintained or stored only
13 as electronic data;

14 C. Serve deposition notices and other discovery requests upon the parties
15 to this action by facsimile or overnight courier, and take depositions
16 by telephone or other remote electronic means; and

17 D. If a Defendant fails to appear for a properly noticed deposition or fails
18 to comply with a request for production or inspection, seek to prohibit
19 that Defendant from introducing evidence at any subsequent hearing.

20 XVI.

21 SERVICE OF PLEADINGS, MEMORANDA, AND OTHER EVIDENCE

22 IT IS FURTHER ORDERED that Defendants shall file any answering
23 affidavits, pleadings, or legal memoranda with the Court and serve the same on
24 counsel for the FTC no later than five (5) business days prior to the preliminary
25 injunction hearing in this matter. The FTC may file responsive or supplemental
26 pleadings, materials, affidavits, or memoranda with the Court and serve the same
27 on counsel for Defendants no later than one (1) business day prior to the
28 preliminary injunction hearing in this matter. Provided that service shall be

1 performed by personal or overnight delivery, facsimile, or email, and documents
2 shall be delivered so that they shall be received by the other parties no later than
3 4 p.m. (Pacific Time) on the appropriate dates listed in this Section.

4 **XVII.**

5 **LIVE TESTIMONY; WITNESS IDENTIFICATION**

6 **IT IS FURTHER ORDERED** that the question of whether this Court
7 should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of
8 Civil Procedure enjoining the Defendants during the pendency of this action shall
9 be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and
10 oral argument of, the parties. Live testimony shall be heard only on further order
11 of this Court on motion filed with the Court and served on counsel for the other
12 parties at least five (5) business days prior to the preliminary injunction hearing in
13 this matter. Such motion shall set forth the name, address, and telephone number
14 of each proposed witness, a detailed summary or affidavit disclosing the substance
15 of each proposed witness' expected testimony, and an explanation of why the
16 taking of live testimony would be helpful to this Court. Any papers opposing a
17 timely motion to present live testimony or to present live testimony in response to
18 live testimony to be presented by another party shall be filed with this Court and
19 served on the other parties at least three (3) business days prior to the preliminary
20 injunction hearing in this matter. Provided that service shall be performed by
21 personal or overnight delivery, facsimile, or email, and documents shall be
22 delivered so that they shall be received by the other parties no later than 4 p.m.
23 (Pacific Time) on the appropriate dates listed in this Section. Provided further,
24 however, that an evidentiary hearing on the Commission's request for a
25 preliminary injunction is not necessary unless Defendants demonstrate that they
26 have, and intend to introduce, evidence that raises a genuine material factual issue.

1 **XVIII.**

2 **MONITORING**

3 **IT IS FURTHER ORDERED** that agents or representatives of the FTC
4 may contact Defendants directly or anonymously for the purpose of monitoring
5 compliance with this Order, and may tape-record any oral communications that
6 occur in the course of such contacts.

7 **XIX.**

8 **DEFENDANTS' DUTY TO DISTRIBUTE ORDER**

9 **IT IS FURTHER ORDERED** that Defendants shall immediately provide a
10 copy of this Order to each affiliate, subsidiary, division, sales entity, successor,
11 assign, officer, director, employee, independent contractor, client company,
12 electronic data host, agent, attorney, spouse, and representative of Defendants and
13 shall, within three (3) calendar days from the date of entry of this Order, provide
14 counsel for the FTC with a sworn statement that: (a) confirms that Defendants
15 have provided copies of the Order as required by this Section, and (b) lists the
16 names and addresses of each entity or person to whom Defendants provided a copy
17 of the Order. Furthermore, Defendants shall not take any action that would
18 encourage officers, agents, directors, employees, salespersons, independent
19 contractors, attorneys, subsidiaries, affiliates, successors, assigns, or other persons
20 or entities in active concert or participation with Defendants to disregard this Order
21 or believe that they are not bound by its provisions.

22 **XX.**

23 **DURATION OF TEMPORARY RESTRAINING ORDER**

24 **IT IS FURTHER ORDERED** that the Temporary Restraining Order
25 granted herein shall expire on the 4th day of
26 May, 2015, at 1:00 p.m. (Pacific Time), unless
27 within such time, the Order, for good cause shown, is extended with the consent of
28

1 the parties, or for an additional period not to exceed fourteen (14) calendar days, or
2 unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

3 **XXI.**

4 **ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

5 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil
6 Procedure 65(b), each of the Defendants shall appear before this Court on the
7 4th day of May, 2015, at 10:00 a.m. (Pacific
8 Time), to show cause, if there is any, why this Court should not enter a preliminary
9 injunction enjoining the violations of law alleged in the FTC's Complaint,
10 continuing the freeze of their assets, and imposing such additional relief as may be
11 appropriate. Any declarations, affidavits, points and authorities, or other
12 submissions in support of, or in opposition to, the issuance of such an Order shall
13 be filed with the Court and delivered to the FTC and the offices of the Defendants
14 or their attorneys no later than 4:00 pm on April 20, 2015. Any reply papers shall
15 be filed with the Court and delivered to opposing counsel no later than 4:00 pm on
16 April 27, 2015.

17 **XXII.**

18 **CORRESPONDENCE WITH PLAINTIFF**

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

23 Eleanor Durham
24 Federal Trade Commission
25 915 Second Ave., Suite 2896
26 Seattle, WA 98174
27 edurham@ftc.gov

28 with a copy to:

Barbara Chun

1 Federal Trade Commission
2 10877 Wilshire Blvd., Suite 700
3 Los Angeles, CA 90024
4 bchun@ftc.gov

5 **XXIII.**

6 **SERVICE OF THIS ORDER**


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

15 **XXIV.**

16 **RETENTION OF JURISDICTION**

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

20 **IT IS SO ORDERED**, this 6th day of April , 2015.

21 
22 _____
23 UNITED STATES DISTRICT JUDGE

24 Respectfully submitted,

25 _____
26 ELEANOR DURHAM
27 MAXINE R. STANSELL
28 Attorneys for Plaintiff
FEDERAL TRADE COMMISSION