

NOTE: CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMERICAN HOME SERVICING  
CENTER, LLC,

CAPITAL HOME ADVOCACY  
CENTER,

NATIONAL ADVOCACY CENTER,  
LLC,

JAIME ABURTO, a/k/a James Aburto,  
and Jamie Aburto, individually, as an  
officer of American Home Servicing  
Center, LLC and National Advocacy  
Center, LLC, and d/b/a A.H.S.C.,  
American Home Servicing Center, Local  
Page, NAC, National Servicing Center,  
NSC Processing, and Secured  
Processing,

MARCUS FIERRO, JR., individually, as  
a member of American Home Servicing

Case No. SACV 18-00597-JLS-KESx

***EX PARTE* TEMPORARY  
RESTRAINING ORDER WITH  
ASSET FREEZE, APPOINTMENT  
OF TEMPORARY RECEIVER,  
LIMITED EXPEDITED  
DISCOVERY, AND ORDER TO  
SHOW CAUSE WHY  
PRELIMINARY INJUNCTION  
SHOULD NOT ISSUE**

[Filed Under Seal]

1 Center, LLC and National Advocacy  
2 Center, LLC, and d/b/a A.H.S.C. and  
3 American Home Servicing Center,  
4 EVE CHRISTINE RODRIGUEZ, a/k/a  
5 Elizabeth Davis, Elizabeth Powers,  
6 Christina Rodriguez, Christine  
7 Rodriguez, and Elizabeth Rodriguez,  
8 individually, as a manager of American  
9 Home Servicing Center, LLC, a member  
10 of Capital Home Advocacy Center, and  
11 d/b/a National Advocacy Group,  
12 and SERGIO LORENZO RODRIGUEZ,  
13 a/k/a Sergio Lawrence, individually, as a  
14 manager of American Home Servicing  
15 Center, LLC, a member of Capital Home  
16 Advocacy Center, and d/b/a National  
17 Advocacy Group,  
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1 Plaintiff, the Federal Trade Commission, has filed its Complaint for  
2 Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the  
3 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the 2009  
4 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678  
5 (Mar. 11, 2009), as clarified by the Credit Card Accountability Responsibility and  
6 Disclosure Act of 2009, Public Law 111-24, Section 511, 123 Stat. 1734, 1763-64  
7 (Mar. 22, 2009), and amended by the Dodd-Frank Wall Street Reform and  
8 Consumer Protection Act, Public Law 111-203, Section 1097, 124 Stat. 1376,  
9 2102-03 (July 21, 2010) (“Dodd-Frank Act”), 12 U.S.C. § 5538, and has moved,  
10 pursuant to Fed. R. Civ. P. 65(b), for a temporary restraining order, asset freeze,  
11 other equitable relief, and an order to show cause why a preliminary injunction  
12 should not issue against Jamie Aburto, Marcus Fierro, Jr., Eve Christine  
13 Rodriguez, and Sergio Lorenzo Rodriguez, and American Home Servicing Center,  
14 LLC, Capital Home Advocacy Center, and National Advocacy Center, LLC.

15 **FINDINGS OF FACT**

16 The Court, having considered the Complaint, the *ex parte* Motion for a  
17 Temporary Restraining Order, declarations, exhibits, and the memorandum of  
18 points and authorities filed in support thereof, and being otherwise advised, finds  
19 that:

20 1. This Court has jurisdiction over the subject matter of this case, and  
21 there is good cause to believe that it will have jurisdiction over all parties hereto  
22 and that venue in this district is proper.

23 2. In numerous instances, Defendants falsely and misleadingly represent,  
24 directly or indirectly, expressly or by implication, that:

25 a. Defendants are likely to obtain mortgage loan modifications on  
26 behalf of consumers; and  
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1           b. Defendants have confirmed mortgage loan modifications on  
2           behalf of consumers.

3           3. There is good cause to believe that Defendants American Home  
4           Servicing Center, LLC (“American Home”), Capital Home Advocacy Center  
5           (“Capital Home”), National Advocacy Center, LLC (“National Advocacy”), Jamie  
6           Aburto, Marcus Fierro, Jr., Eve Christine Rodriguez (“Christina Rodriguez”), and  
7           Sergio Lorenzo Rodriguez have engaged in and are likely to engage in acts or  
8           practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that  
9           Plaintiff is therefore likely to prevail on the merits of this action. As demonstrated  
10          by the bank records, lease documents, consumer declarations, transcripts of calls,  
11          expert testimony, and testimony from a former employee, the FTC has established  
12          a likelihood of success in showing that Defendants make false representations  
13          about their ability to obtain mortgage loan modifications.

14          4. There is good cause to believe that immediate and irreparable harm  
15          will result from Defendants’ ongoing violations of the FTC Act unless Defendants  
16          are restrained and enjoined by order of this Court.

17          5. There is good cause to believe that immediate and irreparable damage  
18          to the Court’s ability to grant effective final relief for consumers – including  
19          monetary restitution, rescission, disgorgement or refunds – will occur from the  
20          sale, transfer, destruction or other disposition or concealment by Defendants of  
21          their assets or records, unless Defendants are immediately restrained and enjoined  
22          by order of this Court; and that, in accordance with Fed. R. Civ. P. 65(b) and L.R.  
23          65-1, the interests of justice require that this Order be granted without prior notice  
24          to Defendants. Thus, there is good cause for relieving Plaintiff of the duty to  
25          provide Defendants with prior notice of its Motion for a Temporary Restraining  
26          Order.



- 1 6. Jaime Aburto; Bank of America; 6391
- 2 7. Jaime Aburto; Comerica; 0386
- 3 8. Jaime Aburto; Comerica; 4656
- 4 9. Jaime Aburto; JP Morgan Chase; 4861
- 5 10. Jaime Aburto; JP Morgan Chase; 8160
- 6 11. American Home; Bank of America; 5909
- 7 12. American Home; Bank of America; 6102
- 8 13. American Home; Bank of America; 6115
- 9 14. American Home Servicing Center/Jaime Aburto; Citibank; 1407
- 10 15. American Home Servicing Center/Jaime Aburto; One West Bank;
- 11 8532
- 12 16. American Home Servicing Center/Jaime Aburto; Pacific Western
- 13 Bank; 9013
- 14 17. American Home Servicing Center/Marcus Fierro, Jr.; JP Morgan
- 15 Chase; 3880
- 16 18. American Home Servicing Center/Marcus Fierro, Jr.; JP Morgan
- 17 Chase; 7052
- 18 19. American Home Servicing Center; Comerica; 1555
- 19 20. Capital Freedom Mortgage Solutions; Bank of America; 2304
- 20 21. Capital Freedom Mortgage Solutions; Bank of America; 2317
- 21 22. Capital Home; Bank of America; 1710
- 22 23. Capital Home; Bank of America; 1723
- 23 24. Marcus Fierro, Jr.; Bank of America; 0215
- 24 25. Marcus Fierro, Jr.; Bank of America; 3952
- 25 26. Marcus Fierro, Jr.; Bank of America; 4423
- 26 27. Marcus Fierro, Jr.; Bank of America; 5177
- 27 28. Marcus Fierro, Jr.; Bank of America; 7380

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- 1 29. Marcus Fierro, Jr.; Bank of America; 7393
- 2 30. Marcus Fierro, Jr.; Bank of America; 7458
- 3 31. Local Page/Jaime Aburto; Comerica; 4197
- 4 32. NAC/Jaime Aburto; Citibank; 4088
- 5 33. National Advocacy/Marcus Fierro, Jr.; Wells Fargo; 3666
- 6 34. National Advocacy/Marcus Fierro, Jr.; Wells Fargo; 3674
- 7 35. National Advocacy; Bank of America; 5912
- 8 36. National Advocacy; Bank of America; 5925
- 9 37. National Advocacy; Bank of America; 5938
- 10 38. National Advocacy; JP Morgan Chase; 8676
- 11 39. National Servicing Center/Eduardo Bello; JP Morgan Chase; 5593
- 12 40. National Servicing Center; Bank of the West; 4311
- 13 41. EC Rodriguez; JP Morgan Chase; 0689
- 14 42. EC Rodriguez; JP Morgan Chase; 5730
- 15 43. EC Rodriguez; JP Morgan Chase; 8412
- 16 44. Sergio L. Rodriguez; Bank of America; 0062
- 17 45. Sergio L. Rodriguez; Bank of America; 1927
- 18 46. Sergio L. Rodriguez; Bank of America; 1930
- 19 47. Sergio L. Rodriguez; Bank of America; 2520
- 20 48. Sergio L. Rodriguez; Bank of America; 5241
- 21 49. Sergio L. Rodriguez; Bank of America; 5254
- 22 50. Sergio L. Rodriguez; Bank of America; 6936
- 23 51. Sergio L. Rodriguez; Citibank; 7001
- 24 52. Sergio Lorenzo Rodriguez; JP Morgan Chase; 4504

25 C. **“Corporate Defendants”** means, collectively, American Home  
26 Servicing Center, LLC (“American Home”), Capital Home Advocacy Center  
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1 (“Capital Home”), and National Advocacy Center, LLC (“National Advocacy”),  
2 and each of their subsidiaries, affiliates, successors, and assigns.

3 D. **“Defendant(s)”** means Corporate Defendants, Jamie Aburto, Marcus  
4 Fierro, Jr., Christina Rodriguez, and Sergio Lorenzo Rodriguez, individually,  
5 collectively, or in any combination.

6 E. **“Document”** is synonymous in meaning and equal in scope to the  
7 usage of “document” and “electronically stored information” in Federal Rule of  
8 Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings,  
9 graphs, charts, photographs, sound and video recordings, images, Internet sites,  
10 web pages, websites, electronic correspondence, including e-mail and instant  
11 messages, contracts, accounting data, advertisements, FTP Logs, Server Access  
12 Logs, books, written or printed records, handwritten notes, telephone logs,  
13 telephone scripts, receipt books, ledgers, personal and business canceled checks  
14 and check registers, bank statements, appointment books, computer records,  
15 customer or sales databases and any other electronically stored information,  
16 including Documents located on remote servers or cloud computing systems, and  
17 other data or data compilations from which information can be obtained directly or,  
18 if necessary, after translation into a reasonably usable form. A draft or non-  
19 identical copy is a separate document within the meaning of the term.

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

24 G. **“Individual Defendant(s)”** means Jamie Aburto, Marcus Fierro, Jr.,  
25 Christina Rodriguez, and Sergio Lorenzo Rodriguez, individually, or in any  
26 combination.

1 H. “**Receiver**” means the temporary receiver appointed in Section XI of  
2 this Order and any deputy receivers that shall be named by the temporary receiver.

3 I. “**Receivership Entities**” means Corporate Defendants as well as any  
4 other entity that has conducted any business related to Defendants’ mortgage  
5 assistance operation, including receipt of Assets derived from any activity that is  
6 the subject of the Complaint in this matter, and that the Receiver determines is  
7 controlled or owned by any Defendant, including Capital Freedom Mortgage  
8 Solutions and Local Page, LLC.

9 **ORDER**

10 **I. PROHIBITED BUSINESS ACTIVITIES**

11 **IT IS THEREFORE ORDERED** that Defendants, Defendants’ officers,  
12 agents, employees, and attorneys, and all other persons in active concert or  
13 participation with them, who receive actual notice of this Order by personal service  
14 or otherwise, whether acting directly or indirectly, in connection with the  
15 advertising, marketing, promoting, or offering for sale of any goods or services, are  
16 temporarily restrained and enjoined from misrepresenting or assisting others in  
17 misrepresenting, expressly or by implication, any material fact, including, but not  
18 limited to:

19 A. Defendants’ likelihood of obtaining mortgage loan modifications on  
20 behalf of consumers;

21 B. Defendants’ confirmation of mortgage loan modifications on behalf of  
22 consumers; and

23 C. Any other fact material to consumers concerning any good or service,  
24 such as: the total costs; any material restrictions, limitations, or conditions; or any  
25 material aspect of its performance, efficacy, nature, or central characteristics.  
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1       **II.    PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

2           **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,  
3 agents, employees, and attorneys, and all other persons in active concert or  
4 participation with any of them, who receive actual notice of this Order, whether  
5 acting directly or indirectly, are hereby temporarily restrained and enjoined from:

6           A.     Selling, renting, leasing, transferring, or otherwise disclosing, the  
7 name, address, birth date, telephone number, email address, credit card number,  
8 bank account number, Social Security number, or other financial or identifying  
9 information of any person that any Defendant obtained in connection with any  
10 activity that pertains to the subject matter of this Order; and

11          B.     Benefitting from or using the name, address, birth date, telephone  
12 number, email address, credit card number, bank account number, Social Security  
13 number, or other financial or identifying information of any person that any  
14 Defendant obtained in connection with any activity that pertains to the subject  
15 matter of this Order.

16          Provided, however, that Defendants may disclose such identifying  
17 information to a law enforcement agency, to their attorneys as required for their  
18 defense, as required by any law, regulation, or court order, or in any filings,  
19 pleadings or discovery in this action in the manner required by the Federal Rules of  
20 Civil Procedure and by any protective order in the case.

21   **III.   ASSET FREEZE**

22           **IT IS FURTHER ORDERED** that Defendants and their officers, agents,  
23 employees, and attorneys, and all other persons in active concert or participation  
24 with any of them, who receive actual notice of this Order, whether acting directly  
25 or indirectly, are hereby temporarily restrained and enjoined from:

26           A.     Transferring, liquidating, converting, encumbering, pledging, loaning,  
27 selling, concealing, dissipating, disbursing, assigning, relinquishing, spending,  
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1 withdrawing, granting a lien or security interest or other interest in, or otherwise  
2 disposing of any Assets that are:

- 3 1. Asset Freeze Accounts;
- 4 2. owned or controlled, directly or indirectly, by any Defendant;
- 5 3. held, in part or in whole, for the benefit of any Defendant;
- 6 4. in the actual or constructive possession of any Defendant; or
- 7 5. owned or controlled by, in the actual or constructive possession  
8 of, or otherwise held for the benefit of, any corporation, partnership,  
9 asset protection trust, or other entity that is directly or indirectly  
10 owned, managed or controlled by any Defendant.

11 B. Opening or causing to be opened any safe deposit boxes, commercial  
12 mail boxes, or storage facilities titled in the name of any Defendant or subject to  
13 access by any Defendant, except as necessary to comply with written requests from  
14 the Receiver acting pursuant to its authority under this Order;

15 C. Incurring charges or cash advances on any credit, debit, or ATM card  
16 issued in the name, individually or jointly, of any Corporate Defendant or any  
17 corporation, partnership, or other entity directly or indirectly owned, managed, or  
18 controlled by any Defendant or of which any Defendant is an officer, director,  
19 member, or manager. This includes any corporate bankcard or corporate credit  
20 card account for which any Defendant is, or was on the date that this Order was  
21 signed, an authorized signor; or

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

24 The Assets affected by this Section shall include: (1) all Assets of  
25 Defendants as of the time this Order is entered; and (2) Assets obtained by  
26 Defendants after this Order is entered if those Assets are derived from any activity  
27 that is the subject of the Complaint in this matter or that is prohibited by this Order.  
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1 This Section does not prohibit any transfers to the Receiver or repatriation of  
2 foreign Assets specifically required by this order.

3 **IV. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES**

4 **IT IS FURTHER ORDERED** that any financial or brokerage institution,  
5 Electronic Data Host, credit card processor, payment processor, merchant bank,  
6 acquiring bank, independent sales organization, third party processor, payment  
7 gateway, insurance company, business entity, or person who receives actual notice  
8 of this Order (by service or otherwise) that:

9 (a) has held, controlled, or maintained custody, through an account or  
10 otherwise, of any Document on behalf of any Defendant or any Asset that has  
11 been: owned or controlled, directly or indirectly, by any Defendant; held, in part  
12 or in whole, for the benefit of any Defendant; in the actual or constructive  
13 possession of any Defendant; or owned or controlled by, in the actual or  
14 constructive possession of, or otherwise held for the benefit of, any corporation,  
15 partnership, asset protection trust, or other entity that is directly or indirectly  
16 owned, managed or controlled by any Defendant;

17 (b) has held, controlled, or maintained custody, through an account or  
18 otherwise, of any Document or Asset associated with credits, debits, or charges  
19 made on behalf of any Defendant, including reserve funds held by payment  
20 processors, credit card processors, merchant banks, acquiring banks, independent  
21 sales organizations, third party processors, payment gateways, insurance  
22 companies, or other entities;

23 (c) has extended credit to any Defendant, including through a credit card  
24 account, shall:

25 A. Hold, preserve, and retain within its control and prohibit the  
26 withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance,  
27 disbursement, dissipation, relinquishment, conversion, sale, or other disposal of  
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1 any such Document or Asset, as well as all Documents or other property related to  
2 such Assets, except by further order of this Court; provided, however, that this  
3 provision does not prohibit an Individual Defendant from incurring charges on a  
4 personal credit card established prior to entry of this Order, up to the pre-existing  
5 credit limit;

6 B. Deny any person, except the Receiver, access to any safe deposit box,  
7 commercial mail box, or storage facility that is titled in the name of any Defendant,  
8 either individually or jointly, or otherwise subject to access by any Defendant;

9 C. Provide Plaintiff's counsel and the Receiver, within three (3) days of  
10 receiving a copy of this Order, a sworn statement setting forth, for each Asset or  
11 account covered by this Section:

- 12 1. The identification number of each such account or Asset;
- 13 2. The balance of each such account, or a description of the nature and  
14 value of each such Asset as of the close of business on the day on  
15 which this Order is served, and, if the account or other Asset has been  
16 closed or removed, the date closed or removed, the total funds  
17 removed in order to close the account, and the name of the person or  
18 entity to whom such account or other Asset was remitted; and
- 19 3. The identification of any safe deposit box, commercial mail box, or  
20 storage facility that is either titled in the name, individually or jointly,  
21 of any Defendant, or is otherwise subject to access by any Defendant;  
22 and

23 D. Upon the request of Plaintiff's counsel or the Receiver, promptly  
24 provide Plaintiff's counsel and the Receiver with copies of all records or other  
25 Documents pertaining to each account covered by this Section or Asset, including  
26 originals or copies of account applications, account statements, signature cards,  
27 checks, drafts, deposit tickets, transfers to and from the accounts, including wire  
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1 transfers and wire transfer instructions, all other debit and credit instruments or  
2 slips, currency transaction reports, 1099 forms, and all logs and records pertaining  
3 to safe deposit boxes, commercial mail boxes, and storage facilities.

4 Provided, however, that this Section does not prohibit any transfers to the  
5 Receiver or repatriation of foreign Assets specifically required by this order.

6 **V. FINANCIAL DISCLOSURES**

7 **IT IS FURTHER ORDERED** that each Defendant, within five (5) days of  
8 service of this Order upon them, shall prepare and deliver to Plaintiff's counsel and  
9 the Receiver:

10 A. completed financial statements on the forms attached to this Order as  
11 **Attachment A** (Financial Statement of Individual Defendant) for each Individual  
12 Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for  
13 each Corporate Defendant; and

14 B. completed **Attachment C** (IRS Form 4506, Request for Copy of a  
15 Tax Return) for each Individual and Corporate Defendant.

16 **VI. FOREIGN ASSET REPATRIATION**

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

19 A. Provide Plaintiff's counsel and the Receiver with a full accounting,  
20 verified under oath and accurate as of the date of this Order, of all Assets,  
21 Documents, and accounts outside of the United States which are: (1) titled in the  
22 name, individually or jointly, of any Defendant; (2) held by any person or entity  
23 for the benefit of any Defendant or for the benefit of, any corporation, partnership,  
24 asset protection trust, or other entity that is directly or indirectly owned, managed  
25 or controlled by any Defendant; or (3) under the direct or indirect control, whether  
26 jointly or singly, of any Defendant;

1           B.     Take all steps necessary to provide Plaintiff’s counsel and Receiver  
2 access to all Documents and records that may be held by third parties located  
3 outside of the territorial United States of America, including signing the Consent to  
4 Release of Financial Records appended to this Order as **Attachment D**.

5           C.     Transfer to the territory of the United States and all Documents and  
6 Assets located in foreign countries which are: (1) titled in the name, individually or  
7 jointly, of any Defendant; (2) held by any person or entity for the benefit of any  
8 Defendant or for the benefit of, any corporation, partnership, asset protection trust,  
9 or other entity that is directly or indirectly owned, managed or controlled by any  
10 Defendant; or (3) under the direct or indirect control, whether jointly or singly, of  
11 any Defendant; and

12           D.     The same business day as any repatriation, (1) notify the Receiver and  
13 counsel for Plaintiff of the name and location of the financial institution or other  
14 entity that is the recipient of such Documents or Assets; and (2) serve this Order on  
15 any such financial institution or other entity.

16                   **VII. NON-INTERFERENCE WITH REPATRIATION**

17           **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,  
18 agents, employees, and attorneys, and all other persons in active concert or  
19 participation with any of them, who receive actual notice of this Order, whether  
20 acting directly or indirectly, are hereby temporarily restrained and enjoined from  
21 taking any action, directly or indirectly, which may result in the encumbrance or  
22 dissipation of foreign Assets, or in the hindrance of the repatriation required by this  
23 Order, including, but not limited to:

24           A.     Sending any communication or engaging in any other act, directly or  
25 indirectly, that results in a determination by a foreign trustee or other entity that a  
26 “duress” event has occurred under the terms of a foreign trust agreement until such  
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1 time that all Defendants' Assets have been fully repatriated pursuant to this Order;  
2 or

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

7 **VIII. CONSUMER CREDIT REPORTS**

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

13 **IX. PRESERVATION OF RECORDS**

14 **IT IS FURTHER ORDERED** that Defendants, Defendants' officers,  
15 agents, employees, and attorneys, and all other persons in active concert or  
16 participation with any of them, who receive actual notice of this Order, whether  
17 acting directly or indirectly, are hereby temporarily restrained and enjoined from:

18 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,  
19 altering, transferring, or otherwise disposing of, in any manner, directly or  
20 indirectly, Documents that relate to: (1) the business, business practices, Assets, or  
21 business or personal finances of any Defendant; (2) the business practices or  
22 finances of entities directly or indirectly under the control of any Defendant; or (3)  
23 the business practices or finances of entities directly or indirectly under common  
24 control with any other Defendant; and

25 B. Failing to create and maintain Documents that, in reasonable detail,  
26 accurately, fairly, and completely reflect Defendants' incomes, disbursements,  
27 transactions, and use of Defendants' Assets.

1                   **X.     REPORT OF NEW BUSINESS ACTIVITY**

2           **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,  
3 agents, employees, and attorneys, and all other persons in active concert or  
4 participation with any of them, who receive actual notice of this Order, whether  
5 acting directly or indirectly, are hereby temporarily restrained and enjoined from  
6 creating, operating, or exercising any control over any business entity, whether  
7 newly formed or previously inactive, including any partnership, limited  
8 partnership, joint venture, sole proprietorship, or corporation, without first  
9 providing Plaintiff’s counsel and the Receiver with a written statement disclosing:  
10 (1) the name of the business entity; (2) the address and telephone number of the  
11 business entity; (3) the names of the business entity’s officers, directors, principals,  
12 managers, and employees; and (4) a detailed description of the business entity’s  
13 intended activities.

14                   **XI.   TEMPORARY RECEIVER**

15           **IT IS FURTHER ORDERED** that Krista L. Freitag is appointed as  
16 temporary receiver of the Receivership Entities with full powers of an equity  
17 receiver. The Receiver shall be solely the agent of this Court in acting as Receiver  
18 under this Order.

19                   **XII. DUTIES AND AUTHORITY OF RECEIVER**

20           **IT IS FURTHER ORDERED** that the Receiver is directed and authorized  
21 to accomplish the following:

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

1           B.     Take exclusive custody, control, and possession of all Assets and  
2 Documents of, or in the possession, custody, or under the control of, any  
3 Receivership Entity, wherever situated;

4           C.     Conserve, hold, manage, and prevent the loss of all Assets of the  
5 Receivership Entities, and perform all acts necessary or advisable to preserve the  
6 value of those Assets. The Receiver shall assume control over the income and  
7 profits therefrom and all sums of money now or hereafter due or owing to the  
8 Receivership Entities. The Receiver shall have full power to sue for, collect, and  
9 receive, all Assets of the Receivership Entities and of other persons or entities  
10 whose interests are now under the direction, possession, custody, or control of, the  
11 Receivership Entities. Provided, however, that the Receiver shall not attempt to  
12 collect any amount from a consumer if the Receiver believes the consumer's debt  
13 to the Receivership Entities has resulted from the deceptive acts or practices or  
14 other violations of law alleged in the Complaint in this matter, without prior Court  
15 approval;

16           D.     Obtain, conserve, hold, manage, and prevent the loss of all Documents  
17 of the Receivership Entities, and perform all acts necessary or advisable to  
18 preserve such Documents. The Receiver shall: divert mail; preserve all  
19 Documents of the Receivership Entities that are accessible via electronic means  
20 (such as online access to financial accounts and access to electronic documents  
21 held onsite or by Electronic Data Hosts, by changing usernames, passwords or  
22 other log-in credentials; take possession of all electronic Documents of the  
23 Receivership Entities stored onsite or remotely; take whatever steps necessary to  
24 preserve all such Documents; and obtain the assistance of the FTC's Digital  
25 Forensic Unit for the purpose of obtaining electronic documents stored onsite or  
26 remotely.

1 E. Choose, engage, and employ attorneys, accountants, appraisers, and  
2 other independent contractors and technical specialists, as the Receiver deems  
3 advisable or necessary in the performance of duties and responsibilities under the  
4 authority granted by this Order;

5 F. Make payments and disbursements from the receivership estate that  
6 are necessary or advisable for carrying out the directions of, or exercising the  
7 authority granted by, this Order, and to incur, or authorize the making of, such  
8 agreements as may be necessary and advisable in discharging his or her duties as  
9 Receiver. The Receiver shall apply to the Court for prior approval of any payment  
10 of any debt or obligation incurred by the Receivership Entities prior to the date of  
11 entry of this Order, except payments that the Receiver deems necessary or  
12 advisable to secure Assets of the Receivership Entities, such as rental payments;

13 G. Take all steps necessary to secure and take exclusive custody of each  
14 location from which the Receivership Entities operate their businesses. Such steps  
15 may include, but are not limited to, any of the following, as the Receiver deems  
16 necessary or advisable: (1) securing the location by changing the locks and alarm  
17 codes and disconnecting any internet access or other means of access to the  
18 computers, servers, internal networks, or other records maintained at that location;  
19 and (2) requiring any persons present at the location to leave the premises, to  
20 provide the Receiver with proof of identification, and/or to demonstrate to the  
21 satisfaction of the Receiver that such persons are not removing from the premises  
22 Documents or Assets of the Receivership Entities. Law enforcement personnel,  
23 including, but not limited to, police or sheriffs, may assist the Receiver in  
24 implementing these provisions in order to keep the peace and maintain security;

25 H. Take all steps necessary to prevent the modification, destruction, or  
26 erasure of any web page or website registered to and operated, in whole or in part,  
27 by any Defendants, and to provide access to all such web page or websites to  
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1 Plaintiff's representatives, agents, and assistants, as well as Defendants and their  
2 representatives;

3 I. Enter into and cancel contracts and purchase insurance as advisable or  
4 necessary;

5 J. Prevent the inequitable distribution of Assets and determine, adjust,  
6 and protect the interests of consumers who have transacted business with the  
7 Receivership Entities;

8 K. Make an accounting, as soon as practicable, of the Assets and  
9 financial condition of the receivership and file the accounting with the Court and  
10 deliver copies thereof to all parties;

11 L. Institute, compromise, adjust, appear in, intervene in, defend, dispose  
12 of, or otherwise become party to any legal action in state, federal or foreign courts  
13 or arbitration proceedings as the Receiver deems necessary and advisable to  
14 preserve or recover the Assets of the Receivership Entities, or to carry out the  
15 Receiver's mandate under this Order, including but not limited to, actions  
16 challenging fraudulent or voidable transfers;

17 M. Issue subpoenas to obtain Documents and records pertaining to the  
18 Receivership, and conduct discovery in this action on behalf of the receivership  
19 estate, in addition to obtaining other discovery as set forth in this Order;

20 N. Open one or more bank accounts at designated depositories for funds  
21 of the Receivership Entities. The Receiver shall deposit all funds of the  
22 Receivership Entities in such designated accounts and shall make all payments and  
23 disbursements from the receivership estate from such accounts. The Receiver shall  
24 serve copies of monthly account statements on all parties;

25 O. Maintain accurate records of all receipts and expenditures incurred as  
26 Receiver;

1 P. Allow the Plaintiffs' representatives, agents, and assistants, as well as  
2 Defendants' representatives and Defendants themselves, reasonable access to the  
3 premises of the Receivership Entities, or any other premises where the  
4 Receivership Entities conduct business. The purpose of this access shall be to  
5 inspect and copy any and all books, records, Documents, accounts, and other  
6 property owned by, or in the possession of, the Receivership Entities or their  
7 agents. The Receiver shall have the discretion to determine the time, manner, and  
8 reasonable conditions of such access;

9 Q. Allow the Plaintiffs' representatives, agents, and assistants, as well as  
10 Defendants and their representatives reasonable access to all Documents in the  
11 possession, custody, or control of the Receivership Entities;

12 R. Cooperate with reasonable requests for information or assistance from  
13 any state or federal civil or criminal law enforcement agency;

14 S. Suspend business operations of the Receivership Entities if in the  
15 judgment of the Receiver such operations cannot be continued legally and  
16 profitably; and

17 T. If in the Receiver's judgment the business operations cannot be  
18 continued legally and profitably, take all steps necessary to ensure that any of the  
19 Receivership Entities' web pages or websites relating to the activities alleged in the  
20 Complaint cannot be accessed by the public, or are modified for consumer  
21 education and/or informational purposes, and take all steps necessary to ensure that  
22 any telephone numbers associated with the Receivership Entities cannot be  
23 accessed by the public, or are answered solely to provide consumer education or  
24 information regarding the status of operations.

25 **XIII. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

26 **IT IS FURTHER ORDERED** that Defendants and any other person, with  
27 possession, custody or control of property of, or records relating to, the  
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1 Receivership Entities shall, upon notice of this Order by personal service or  
2 otherwise, fully cooperate with and assist the Receiver in taking and maintaining  
3 possession, custody, or control of the Assets and Documents of the Receivership  
4 Entities and immediately transfer or deliver to the Receiver possession, custody,  
5 and control of, the following:

6 A. All Assets held by or for the benefit of the Receivership Entities;

7 B. All Documents of or pertaining to the Receivership Entities;

8 C. All computers, electronic devices, mobile devices and machines used  
9 to conduct the business of the Receivership Entities;

10 D. All Assets and Documents belonging to other persons or entities  
11 whose interests are under the direction, possession, custody, or control of the  
12 Receivership Entities; and

13 E. All keys, codes, user names and passwords necessary to gain or to  
14 secure access to any Assets or Documents of or pertaining to the Receivership  
15 Entities, including access to their business premises, means of communication,  
16 accounts, computer systems (onsite and remote), Electronic Data Hosts, or other  
17 property.

18 In the event that any person or entity fails to deliver or transfer any Asset or  
19 Document, or otherwise fails to comply with any provision of this Section, the  
20 Receiver may file an Affidavit of Non-Compliance regarding the failure and a  
21 motion seeking compliance or a contempt citation.

22 **XIV. PROVISION OF INFORMATION TO RECEIVER**

23 **IT IS FURTHER ORDERED** that Defendants shall immediately provide  
24 to the Receiver:

25 A. A list of all Assets and accounts of the Receivership Entities that are  
26 held in any name other than the name of a Receivership Entity, or by any person or  
27 entity other than a Receivership Entity;

1           B.     A list of all agents, employees, officers, attorneys, servants and those  
2 persons in active concert and participation with the Receivership Entities, or who  
3 have been associated or done business with the Receivership Entities; and

4           C.     A description of any documents covered by attorney-client privilege  
5 or attorney work product, including files where such documents are likely to be  
6 located, authors or recipients of such documents, and search terms likely to  
7 identify such electronic documents.

8                                   **XV. COOPERATION WITH THE RECEIVER**

9           **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;  
10 Defendants' or Receivership Entities' officers, agents, employees, and attorneys,  
11 all other persons in active concert or participation with any of them, and any other  
12 person with possession, custody, or control of property of or records relating to the  
13 Receivership entities who receive actual notice of this Order shall fully cooperate  
14 with and assist the Receiver. This cooperation and assistance shall include, but is  
15 not limited to, providing information to the Receiver that the Receiver deems  
16 necessary to exercise the authority and discharge the responsibilities of the  
17 Receiver under this Order; providing any keys, codes, user names and passwords  
18 required to access any computers, electronic devices, mobile devices, and  
19 machines (onsite or remotely) and any cloud account (including specific method to  
20 access account) or electronic file in any medium; advising all persons who owe  
21 money to any Receivership Entity that all debts should be paid directly to the  
22 Receiver; and transferring funds at the Receiver's direction and producing records  
23 related to the Assets and sales of the Receivership Entities.

24                                   **XVI. NON-INTERFERENCE WITH THE RECEIVER**

25           **IT IS FURTHER ORDERED** that Defendants; Receivership Entities;  
26 Defendants' or Receivership Entities' officers, agents, employees, attorneys, and  
27 all other persons in active concert or participation with any of them, who receive  
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1 actual notice of this Order, and any other person served with a copy of this Order,  
2 are hereby restrained and enjoined from directly or indirectly:

3 A. Interfering with the Receiver's efforts to manage, or take custody,  
4 control, or possession of, the Assets or Documents subject to the receivership;

5 B. Transacting any of the business of the Receivership Entities;

6 C. Transferring, receiving, altering, selling, encumbering, pledging,  
7 assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or  
8 in the possession or custody of, or in which an interest is held or claimed by, the  
9 Receivership Entities; or

10 D. Refusing to cooperate with the Receiver or the Receiver's duly  
11 authorized agents in the exercise of their duties or authority under any order of this  
12 Court.

13 **XVII. STAY OF ACTIONS**

14 **IT IS FURTHER ORDERED** that, except by leave of this Court, during  
15 the pendency of the receivership ordered herein, Defendants, Defendants' officers,  
16 agents, employees, attorneys, and all other persons in active concert or  
17 participation with any of them, who receive actual notice of this Order, and their  
18 corporations, subsidiaries, divisions, or affiliates, and all investors, creditors,  
19 stockholders, lessors, customers and other persons seeking to establish or enforce  
20 any claim, right, or interest against or on behalf of Defendants, and all others  
21 acting for or on behalf of such persons, are hereby enjoined from taking action that  
22 would interfere with the exclusive jurisdiction of this Court over the Assets or  
23 Documents of the Receivership Entities, including, but not limited to:

24 A. Filing or assisting in the filing of a petition for relief under the  
25 Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, or of any similar insolvency proceeding  
26 on behalf of the Receivership Entities;

1           B.     Commencing, prosecuting, or continuing a judicial, administrative, or  
2 other action or proceeding against the Receivership Entities, including the issuance  
3 or employment of process against the Receivership Entities, except that such  
4 actions may be commenced if necessary to toll any applicable statute of  
5 limitations; or

6           C.     Filing or enforcing any lien on any asset of the Receivership Entities,  
7 taking or attempting to take possession, custody, or control of any Asset of the  
8 Receivership Entities; or attempting to foreclose, forfeit, alter, or terminate any  
9 interest in any Asset of the Receivership Entities, whether such acts are part of a  
10 judicial proceeding, are acts of self-help, or otherwise.

11           Provided, however, that this Order does not stay: (1) the commencement or  
12 continuation of a criminal action or proceeding; (2) the commencement or  
13 continuation of an action or proceeding by a governmental unit to enforce such  
14 governmental unit's police or regulatory power; or (3) the enforcement of a  
15 judgment, other than a money judgment, obtained in an action or proceeding by a  
16 governmental unit to enforce such governmental unit's police or regulatory power.

17                           **XVIII.     COMPENSATION OF RECEIVER**

18           **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by  
19 the Receiver as herein authorized, including counsel to the Receiver and  
20 accountants, are entitled to reasonable compensation for the performance of duties  
21 pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by  
22 them, from the Assets now held by, in the possession or control of, or which may  
23 be received by, the Receivership Entities. The Receiver shall file with the Court  
24 and serve on the parties periodic requests for the payment of such reasonable  
25 compensation, with the first such request filed no more than sixty (60) days after  
26 the date of entry of this Order. The Receiver shall not increase the hourly rates  
27 used as the bases for such fee applications without prior approval of the Court.

1 **XIX. NO BOND REQUIREMENT**

2 **IT IS FURTHER ORDERED** that no bond shall be required in this matter:

3 A. The United States and its agencies as moving party are not required to  
4 give security under Federal Rule of Civil Procedure 65(c).

5 B. No bond shall be required in connection with the appointment of the  
6 Temporary Receiver. Except for an act of gross negligence, the Temporary  
7 Receiver and the professionals shall not be liable for any loss or damage incurred  
8 by any of the Defendants, their officers, agents, servants, employees, and attorneys  
9 or any other Person, by reason of any act performed or omitted to be performed by  
10 the Temporary Receiver and the professionals in connection with the discharge of  
11 his or her duties and responsibilities.

12 **XX. IMMEDIATE ACCESS TO BUSINESS PREMISES AND RECORDS**

13 **IT IS FURTHER ORDERED THAT:**

14 A. In order to allow Plaintiff and the Receiver to preserve Assets and  
15 evidence relevant to this action and to expedite discovery, Plaintiff and the  
16 Receiver, and their representatives, agents, contractors, and assistants, shall have  
17 immediate access to the business premises and storage facilities, owned,  
18 controlled, or used by the Receivership Entities. Such locations include, but are  
19 not limited to, 301 West La Habra Blvd., Suite 2D, La Habra, CA 90631 and 1809  
20 East Dyer Road, Suite 301, Santa Ana, CA 92705, and any offsite location or  
21 commercial mailbox used by the Receivership Entities. The Receiver may exclude  
22 Defendants, Receivership Entities, and their employees from the business premises  
23 during the immediate access.

24 B. Plaintiff and the Receiver, and their representatives, agents,  
25 contractors, and assistants, are authorized to remove Documents from the  
26 Receivership Entities' premises in order that they may be inspected, inventoried,  
27 and copied. Plaintiff shall return any removed materials to the Receiver within  
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1 five (5) business days of completing inventorying and copying, or such time as is  
2 agreed upon by Plaintiff and the Receiver;

3 C. Plaintiff's access to the Receivership Entities' documents pursuant to  
4 this Section shall not provide grounds for any Defendant to object to any  
5 subsequent request for documents served by Plaintiff.

6 D. Plaintiff and the Receiver, and their representatives, agents,  
7 contractors, and assistants, are authorized to obtain the assistance of federal, state  
8 and local law enforcement officers as they deem necessary to effect service and to  
9 implement peacefully the provisions of this Order;

10 E. If any Documents, computers, or electronic storage devices containing  
11 information related to the business practices or finances of the Receivership  
12 Entities are at a location other than those listed herein, including personal  
13 residence(s) of any Defendant, then, immediately upon receiving notice of this  
14 order, Defendants and Receivership Entities shall produce to the Receiver all such  
15 Documents, computers, and electronic storage devices, along with any codes or  
16 passwords needed for access. In order to prevent the destruction of computer data,  
17 upon service of this Order, any such computers or electronic storage devices shall  
18 be powered down in the normal course of the operating system used on such  
19 devices and shall not be powered up or used until produced for copying and  
20 inspection; and

21 F. If any communications or records of any Receivership Entity are  
22 stored with an Electronic Data Host, such Entity shall, immediately upon receiving  
23 notice of this order, provide the Receiver with the username, passwords, and any  
24 other login credential needed to access the communications and records, and shall  
25 not attempt to access, or cause a third-party to attempt to access, the  
26 communications or records.

1                   **XXI. DISTRIBUTION OF ORDER BY DEFENDANTS**

2           **IT IS FURTHER ORDERED** that Defendants shall immediately provide a  
3 copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor,  
4 assign, member, officer, director, employee, agent, independent contractor, client,  
5 attorney, spouse, subsidiary, division, and representative of any Defendant, and  
6 shall, within ten (10) days from the date of entry of this Order, provide Plaintiff  
7 and the Receiver with a sworn statement that this provision of the Order has been  
8 satisfied, which statement shall include the names, physical addresses, phone  
9 number, and email addresses of each such person or entity who received a copy of  
10 the Order. Furthermore, Defendants shall not take any action that would  
11 encourage officers, agents, members, directors, employees, salespersons,  
12 independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or  
13 other persons or entities in active concert or participation with them to disregard  
14 this Order or believe that they are not bound by its provisions.

15                   **XXII. EXPEDITED DISCOVERY**

16           **IT IS FURTHER ORDERED** that, notwithstanding the provisions of the  
17 Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(A)(iii), and pursuant to Fed. R. Civ. P.  
18 30(a), 34, and 45, Plaintiff and the Receiver are granted leave, at any time after  
19 service of this Order, to conduct limited expedited discovery for the purpose of  
20 discovering: (1) the nature, location, status, and extent of Defendants' Assets; (2)  
21 the nature, location, and extent of Defendants' business transactions and  
22 operations; (3) Documents reflecting Defendants' business transactions and  
23 operations; or (4) compliance with this Order. The limited expedited discovery set  
24 forth in this Section shall proceed as follows:

25           Plaintiff and the Receiver may take the deposition of parties and non-parties.  
26 Seventy-two (72) hours' notice shall be sufficient notice for such depositions. The  
27 limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the  
28

1 Federal Rules of Civil Procedure regarding subsequent depositions of an individual  
2 shall not apply to depositions taken pursuant to this Section. Any such deposition  
3 taken pursuant to this Section shall not be counted towards the deposition limit set  
4 forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by  
5 telephone or other remote electronic means;

6 A. Plaintiff and the Receiver may serve upon parties requests for  
7 production of Documents or inspection that require production or inspection within  
8 five (5) days of service, provided, however, that three (3) days of notice shall be  
9 deemed sufficient for the production of any such Documents that are maintained or  
10 stored only in an electronic format.

11 B. Plaintiff and the Receiver may serve upon parties interrogatories that  
12 require response within five (5) days after Plaintiff serves such interrogatories;

13 C. The Plaintiff and the Receiver may serve subpoenas upon non-parties  
14 that direct production or inspection within five (5) days of service.

15 D. Service of discovery upon a party to this action, taken pursuant to this  
16 Section, shall be sufficient if made by facsimile, email, or by overnight delivery.

17 E. Any expedited discovery taken pursuant to this Section is in addition  
18 to, and is not subject to, the limits on discovery set forth in the Federal Rules of  
19 Civil Procedure and the Local Rules of this Court. The expedited discovery  
20 permitted by this Section does not require a meeting or conference of the parties,  
21 pursuant to Rules 26(d) & (f) of the Federal Rules of Civil Procedure.

22 F. The Parties are exempted from making initial disclosures under Fed.  
23 R. Civ. P. 26(a)(1) until further order of this Court.

24 **XXIII. SERVICE OF THIS ORDER**

25 **IT IS FURTHER ORDERED** that copies of this Order as well as the  
26 Motion for Temporary Restraining Order and all other pleadings, Documents, and  
27 exhibits filed contemporaneously with that Motion (other than the complaint and  
28

1 summons), may be served by any means, including facsimile transmission,  
2 electronic mail or other electronic messaging, personal or overnight delivery, U.S.  
3 Mail or FedEx, by agents and employees of Plaintiff, by any law enforcement  
4 agency, or by private process server, upon any Defendant or any person (including  
5 any financial institution) that may have possession, custody or control of any Asset  
6 or Document of any Defendant, or that may be subject to any provision of this  
7 Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For  
8 purposes of this Section, service upon any branch, subsidiary, affiliate or office of  
9 any entity shall effect service upon the entire entity.

10 **XXIV. CORRESPONDENCE AND SERVICE ON PLAINTIFF**

11 **IT IS FURTHER ORDERED** that, for the purpose of this Order, all  
12 correspondence and service of pleadings on Plaintiff shall be addressed to:

13 Elsie Kappler  
14 Simon Han  
15 Federal Trade Commission  
16 600 Pennsylvania Ave., NW, Mail Drop CC-9528  
17 Washington, DC 20580  
18 Telephone: (202) 326-2466, -2495  
19 ekappler@ftc.gov, shan@ftc.gov

20 **XXV. PRELIMINARY INJUNCTION HEARING**

21 **IT IS FURTHER ORDERED** that, pursuant to Fed. R. Civ. P. 65(b),  
22 Defendants shall appear before this Court on the 26th day of April, 2018, at 2:30  
23 p.m., to show cause, if there is any, why this Court should not enter a preliminary  
24 injunction, pending final ruling on the Complaint against Defendants, enjoining the  
25 violations of the law alleged in the Complaint, continuing the freeze of their  
26 Assets, continuing the receivership, and imposing such additional relief as may be  
27 appropriate.  
28



1 testimony or to present live testimony in response to another party's timely motion  
2 to present live testimony shall be filed with this Court and served on the other  
3 parties at least three (3) days prior to the order to show cause hearing.

4 Provided, however, that service shall be performed by personal or overnight  
5 delivery, facsimile or email, and Documents shall be delivered so that they shall be  
6 received by the other parties no later than 5:00 p.m. (Pacific Time) on the  
7 appropriate dates provided in this Section.

8 **XXVII. DURATION OF THE ORDER**

9 **IT IS FURTHER ORDERED** that this Order shall expire fourteen (14)  
10 days from the date of entry noted below, unless within such time, the Order is  
11 extended for an additional period pursuant to Fed. R. Civ. P. 65(b)(2).

12 **XXVIII. RETENTION OF JURISDICTION**

13 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of  
14 this matter for all purposes.

15 **SO ORDERED**, this 13th day of April, 2018, at 7:30 a.m.

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19 JOSEPHINE L. STATON  
20 UNITED STATES DISTRICT JUDGE  
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