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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

CV 12-2521-PHX-JAT

Federal Trade Commission)	Amended (to add case number)
	)	TEMPORARY RESTRAINING
Plaintiff,	)	ORDER WITH ASSET FREEZE,
	)	APPOINTMENT OF TEMPORARY
v.	)	RECEIVER, IMMEDIATE ACCESS
	)	TO BUSINESS PREMISES,
National Card Monitor LLC, also	)	EXPEDITED DISCOVERY, AND
d/b/a Nationwide Card Monitor; and	)	ORDER TO SHOW CAUSE WHY A
James Eric Cox,	)	PRELIMINARY INJUNCTION
	)	SHOULD NOT ISSUE AND WHY A
Defendants.	)	PERMANENT RECEIVER SHOULD
	)	NOT BE APPOINTED

Under Seal until December 3, 2012

Plaintiff Federal Trade Commission (“Commission” or “FTC”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, has filed a complaint for injunctive and other equitable relief, and applied for a temporary restraining order with asset freeze, the appointment of a temporary receiver, immediate access to the Defendants’ business premises, expedited discovery, and an order to show cause why a preliminary injunction should not issue and why a permanent receiver should not be appointed pursuant to Rule 65 of the Federal Rules of Civil Procedure.

1 **FINDINGS OF FACT**

2 This Court has considered Plaintiff's Complaint, *Ex Parte* Application
3 for Temporary Restraining Order ("TRO Application"), Memorandum of
4 Points and Authorities, Declarations and Exhibits in Support of Plaintiffs'
5 Application for Temporary Restraining Order, Etc., and all other papers filed
6 herein. It appears to the satisfaction of the Court that:

7 1. This Court has jurisdiction over the subject matter of this case,
8 pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a),
9 53(b), 57b, 6102(c), and 6105(b). There is also good cause to believe the
10 Court will have jurisdiction over the parties.

11 2. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c),
12 and 15 U.S.C. § 53(b).

13 3. There is good cause to believe that Defendants National Card
14 Monitor LLC, sometimes doing business as Nationwide Card Monitor, and
15 James Eric Cox have engaged in and are likely to engage in acts that violate
16 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales
17 Rule ("TSR"), 16 C.F.R. Part 310, and that the Commission is likely to prevail
18 on the merits of this action.

19 4. There is good cause to believe that immediate and irreparable
20 harm will result from Defendants' ongoing violations of the FTC Act and the
21 TSR unless Defendants are restrained and enjoined by Order of this Court.

22 5. There is good cause to believe that immediate and irreparable
23 damage to the Court's ability to grant effective final relief for
24 consumers—including refunds, rescission and restitution, disgorgement or
25 other equitable monetary relief—will occur from the sale, transfer, or other
26 disposition or concealment by Defendants of assets or records if Defendants
27 are provided with advance notice of this Order, and that therefore, in
28 accordance with Fed. R. Civ. P. 65(b), the interests of justice require that this

1 Order be granted without prior notice to Defendants. There is thus good cause
2 for relieving the Commission of the duty to provide Defendants with prior
3 notice of the Commission's application.

4 6. Good cause exists for the appointment of a Temporary Receiver
5 over Defendant National Card Monitor LLC.

6 7. Considering Plaintiff's likelihood of ultimate success and
7 weighing the equities, a Temporary Restraining Order with an asset freeze, the
8 appointment of a Temporary Receiver, and other equitable relief is in the
9 public interest.

10 8. The Commission is an independent agency of the United States of
11 America and no security is required of any agency of the United States of
12 America for issuance of a restraining order under Fed. R. Civ. P. 65(c).

13 **ORDER**

14 DEFINITIONS

15 For purposes of this Order, the following definitions shall apply:

16 1. "Assets" means any legal or equitable interest in, right to, or
17 claim to, any real or personal property, including, without limitation, chattels,
18 goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail
19 or other deliveries, inventory, checks, notes, accounts, credits, contracts,
20 receivables, shares of stock, and all cash, wherever located.

21 2. "Assisting others" means knowingly providing any of the
22 following goods or services to another person or entity:

- 23 a. performing customer service functions, including, but not
24 limited to, receiving or responding to consumer
25 complaints; or
26 b. formulating or providing, or arranging for the formulation
27 or provision of, any telephone sales script or any other
28 marketing material; or

- 1 c. providing names of, or assisting in the generation of,
2 potential customers; or
3 d. performing marketing services of any kind.

4 3. **“Credit-related good or service”** means any good or service that
5 is purported directly or indirectly to (a) provide to consumers, arrange for
6 consumers to receive, or assist consumers in receiving grants, loans, financing,
7 credit or debit cards, or other extensions of credit; or (b) provide consumers,
8 arrange for consumers to receive, or assist consumers in receiving, debt
9 consolidation, debt relief, or other credit counseling.

10 4. **“Defendants”** means National Card Monitor LLC, sometimes
11 doing business as Nationwide Card Monitor, and James Eric Cox, and each of
12 them, by whatever names each might be known by, as well as their successors
13 and assigns, whether acting directly or through any corporation, subsidiary,
14 division, or other device, including, but not limited to, fictitious business
15 names.

16 5. The term **“document”** includes writings, drawings, graphs,
17 charts, photographs, sound recordings, video recordings, images, e-mails,
18 computer files, other electronically stored information, and other data or data
19 compilations stored in any medium from which information can be obtained.
20 A draft or non-identical copy is a separate document within the meaning of the
21 term.

22 6. **“Individual Defendant”** refers to Defendant James Eric Cox.

23 7. **“Material fact”** means any fact that is likely to affect a person’s
24 choice of, or conduct regarding, goods or services.

25 8. **“NCM”** refers to Defendant National Card Monitor LLC, by
26 whatever name it might be known by, as well as its successors and assigns,
27 whether acting directly or through any corporation, subsidiary, division, or
28 other device, including, but not limited to, Nationwide Card Monitor or any

1 other trade names or fictitious business names.

2 9. “**Person**” means a natural person, organization, or other legal
3 entity, including a corporation, partnership, proprietorship, association,
4 cooperative, or any other group or combination acting as an entity.

5 10. “**Plaintiff**” means the Federal Trade Commission.

6 11. “**Receivership Defendants**” refers to Defendant National Card
7 Monitor LLC as well as any successors, assigns, affiliates, and subsidiaries
8 that conduct any business related to NCM’s credit-related good or services
9 and which the Temporary Receiver has reason to believe are owned or
10 controlled in whole or in part by any of the **Defendants**.

11 12. “**Telemarketing**” means a plan, program, or campaign, whether
12 or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310, that is
13 conducted to induce the purchase of products or services or a charitable
14 contribution by use of one or more telephones and that involves more than one
15 interstate telephone call.

16 I.

17 **PROHIBITED REPRESENTATIONS**

18 **IT IS THEREFORE ORDERED** that each of the **Defendants**, and
19 their successors, assigns, officers, agents, servants, employees, and attorneys,
20 and those **persons** or entities in active concert or participation with any of
21 them who receive actual notice of this Order by personal service or otherwise,
22 whether acting directly or through any corporation, subsidiary, division, or
23 other device, in connection with the advertising, marketing, promotion,
24 offering for sale or sale of any **credit-related good or service**, are hereby
25 **temporarily restrained and enjoined** from the following:

26 A. Misrepresenting, or **assisting others** who are misrepresenting,
27 expressly or by implication, that consumers will receive, or are likely to
28 receive, a low rate credit card;

1 B. Representing, expressly or by implication, that consumers will
2 receive, or are likely to receive, a low rate credit card, unless the Defendant
3 possesses and relies upon a reasonable basis to substantiate the representation
4 at the time the representation is made;

5 C. Misrepresenting, or **assisting others** who are misrepresenting,
6 expressly or by implication, that consumers will receive, or are likely to
7 receive, a credit card with an interest rate that is substantially lower than the
8 rate the consumer is currently required to pay;

9 D. Representing, expressly or by implication, that consumers will
10 receive, or are likely to receive, a credit card with an interest rate that is
11 substantially lower than the rate the consumer is currently required to pay,
12 unless the Defendant possesses and relies upon a reasonable basis to
13 substantiate the representation at the time the representation is made;

14 E. Misrepresenting, or **assisting others** who are misrepresenting,
15 expressly or by implication, that consumers will receive, or are likely to
16 receive, an extension of credit that will allow the consumer to pay off any
17 existing credit card debt and which will have a lower interest rate or a lower
18 payment than the consumer is currently required to pay;

19 F. Representing, expressly or by implication, that consumers will
20 receive, or are likely to receive, an extension of credit that will allow the
21 consumer to pay off any existing credit card debt and which will have a lower
22 interest rate or a lower payment than the consumer is currently required to pay,
23 unless the Defendant possesses and relies upon a reasonable basis to
24 substantiate the representation at the time the representation is made;

25 G. Misrepresenting, or **assisting others** who are misrepresenting,
26 expressly or by implication, that **Defendants** or anyone else will provide, or
27 that consumers will receive, any other service or product that will lower the
28 consumer's credit card interest rate, the consumer's monthly payment, the total

1 amount that the consumer will have to pay to any creditor, or the balance on
2 any of the consumer's credit card accounts;

3 H. Representing, expressly or by implication, that **Defendants** or
4 anyone else will provide, or that consumers will receive, any other service or
5 product that will lower the consumer's credit card interest rate, the consumer's
6 monthly payment, the total amount that the consumer will have to pay any
7 creditor, or the balance on any of the consumer's credit card accounts, unless
8 the Defendant possesses and relies upon a reasonable basis to substantiate the
9 representation at the time the representation is made;

10 I. Misrepresenting, or **assisting others** who are misrepresenting,
11 expressly or by implication, that **Defendants** or anyone else will provide, or
12 that consumers will receive, refunds if consumers do not receive the credit
13 cards, extension of credit, or other **credit-related good or service** being
14 offered or marketed to the consumer, or if consumers are dissatisfied for any
15 other reason; or

16 J. Misrepresenting any other **material fact**.

17 **II.**

18 **PROHIBITIONS ON VIOLATING**
19 **THE TELEMARKETING SALES RULE**

20 **IT IS FURTHER ORDERED** that **Defendants** and their successors,
21 assigns, officers, agents, servants, employees, and attorneys, and those persons
22 or entities in active concert or participation with any of them who receive
23 actual notice of this Order by personal service or otherwise, whether acting
24 directly or through any corporation, subsidiary, division, or other device, in
25 connection with the **telemarketing** of any good or service, are hereby
26 temporarily restrained and enjoined from violating any provision of the
27 Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to:

28 A. violating Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R.

1 310.3(a)(2)(iii), by misrepresenting, directly or by implication, any material
2 aspect of the performance, efficacy, nature, or central characteristics of such
3 goods and services, including, but not limited to, misrepresenting that
4 consumers who purchase credit card interest rate reduction services will
5 receive a low rate credit card or will have their credit card rates reduced
6 substantially;

7 B. violating Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R.
8 § 310.3(a)(2)(iv), by misrepresenting any material aspect of the nature or
9 terms of any seller's refund, cancellation, exchange, or repurchase policies,
10 including but not limited to misrepresenting, directly or by implication, that
11 any **Defendant** will provide full refunds if consumers do not receive the low
12 interest rate credit cards that they were told they would receive;

13 C. violating Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R.
14 § 310.4(b)(1)(iii)(B), by initiating any outbound telephone call to any
15 telephone number on the National Do Not Call Registry maintained by the
16 Federal Trade Commission;

17 D. violating Section 310.8 of the TSR, 16 C.F.R. § 310.8., by calling
18 any telephone number within a given area code unless the seller on whose
19 behalf the call is made has paid the annual fee for access to the telephone
20 numbers that are within that area code and are included in the National Do Not
21 Call Registry; and

22 E. violating Section 310.4(a)(4) of the TSR, 16 C.F.R. § 310.4(a)(4),
23 by requesting or receiving payment of a fee or consideration in advance of
24 consumers obtaining an extension of credit when **Defendants** have guaranteed
25 or represented a high likelihood of success in obtaining or arranging an
26 extension of credit for such consumers.

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3 **III.**

4 **ASSET FREEZE**

5 **IT IS FURTHER ORDERED** that each of the **Defendants** is hereby
6 temporarily restrained and enjoined, until further order of this Court, from:

7 A. Transferring, encumbering, selling, concealing, pledging,
8 hypothecating, assigning, spending, withdrawing, disbursing, conveying,
9 gifting, dissipating, or otherwise disposing of any funds, property, coins, lists
10 of consumer names, shares of stock, or other **assets**, wherever located, that are
11 (1) owned or controlled by any of the **Defendants**, in whole or in part; (2) in
12 the actual or constructive possession of any of the **Defendants**; (3) held by an
13 agent of any of the **Defendants**, as a retainer for the agent's provision of
14 services to a Defendant; or (4) owned, controlled by, or in the actual or
15 constructive possession of, or otherwise held for the benefit of, any
16 corporation, partnership, or other entity directly or indirectly owned or
17 controlled by any of the **Defendants**. This provision specifically applies to,
18 but is not limited to, funds held in account numbers ending in 2433 and 2561
19 at JPMorgan Chase Bank;

20 B. Opening or causing to be opened any safe deposit boxes titled in
21 the name of any of the **Defendants**, or subject to access by any of the
22 **Defendants**;

23 C. Incurring charges or cash advances on any credit or debit card
24 issued in the name, singly or jointly, of any of the **Defendants**, or any
25 corporation, partnership, or other entity directly or indirectly owned or
26 controlled by any of the **Defendants**; and

27 D. Failing to disclose to **Plaintiff**, immediately upon service of this
28 Order, information that fully identifies each **asset** of the **Defendants**, and each
entity holding such asset, including, without limitation, the entity's name,
address, and telephone number, the number of the account, and the name

1 under which the account is held.

2 E. Provided, that the freeze imposed in this Section shall apply to
3 **assets** that any of the **Defendants** acquires following service of this Order
4 only if such **assets** are derived from activity prohibited by this Order.

5 IV.

6 **REPATRIATION OF ASSETS**

7 **IT IS FURTHER ORDERED** that within five business days following
8 service of this Order, Defendant Cox shall:

9 A. Provide to **Plaintiff** (and, with respect to **assets** and **documents**
10 of Defendant **NCM**, to the Temporary Receiver) a full accounting of all funds,
11 **documents**, and **assets** outside of the territory of the United States held either:
12 (1) by the Defendant; (2) for the Defendant's benefit; or (3) under the
13 Defendant's direct or indirect control, jointly or singly;

14 B. Repatriate to the United States all funds, **documents**, or **assets** in
15 foreign countries held: (1) by the Defendant; (2) for the Defendant's benefit;
16 or (3) under the direct or indirect control of the Defendant;

17 C. The same business day as any repatriation under paragraph B
18 above,

- 19 1. notify **Plaintiff** (and, if applicable, the Temporary
20 Receiver) of the name and location of the financial
21 institution or other entity that is the recipient of such funds,
22 **documents**, or **assets**; and
23 2. serve this Order on any such financial institution or other
24 entity; and

25 D. Hold and retain all repatriated funds, **documents**, and **assets** and
26 prevent any transfer, disposition, or dissipation whatsoever of any such **assets**
27 or funds.
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V.

FINANCIAL REPORTS

IT IS FURTHER ORDERED that within forty-eight (48) hours after service of this Order:

A. Defendant Cox shall accurately complete, sign and deliver to **Plaintiff** the Financial Statement titled "Financial Statement of Individual Defendant," a copy of which is attached hereto as Attachment 1;

B. Defendant Cox shall accurately complete, sign and deliver to **Plaintiff** and to the Temporary Receiver for **NCM** the Financial Statement titled "Financial Statement of Business Entity Defendant," a copy of which is attached hereto as Attachment 2;

C. Defendant Cox shall, on behalf of each business entity of which he is the majority owner or otherwise controls, other than **NCM**, accurately complete, sign and deliver to **Plaintiff** a separate copy of the Financial Statement titled "Financial Statement of Business Entity Defendant," a copy of which is attached hereto as Attachment 2.

VI.

PRESERVATION OF DOCUMENTS

A. Preservation By Defendants

IT IS FURTHER ORDERED that **Defendants**, and their agents, servants, employees, and attorneys, and all **persons** or entities directly or indirectly under the control of any of them, and all other **persons** or entities in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, and each such person, are hereby temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring or otherwise disposing of, in any manner, directly or indirectly, any **documents** that relate to the business practices or finances of any of the **Defendants**, including, but not limited to, such

1 **documents** as any contracts, accounting data, correspondence, advertisements,
2 e-mails, computer tapes, discs or other computerized records, books, written or
3 printed records, personnel files, handwritten notes, telephone logs, telephone
4 scripts, receipt books, ledgers, personal and business canceled checks and
5 check registers, bank statements, appointment books, copies of federal, state,
6 or local business or personal income or property tax returns.

7 Without limitation, this Section specifically applies to all **documents**
8 that have been or are displayed on, or have been or are accessible from, any
9 and all Internet websites owned or controlled by any Defendant, including but
10 not limited to the websites with the following domain names:

11 (1) nationalcardmonitor.com; or (2) nationwidecardmonitor.com. This Section
12 also specifically applies to (1) all e-mails sent to or from
13 <NCM.customerservice@gmail.com>, and (2) all e-mails sent to or from
14 <jeri12@cox.net> that refer or otherwise relate to the business of National
15 Card Monitor LLC or Nationwide Card Monitor.

16 **B. Preservation By Third Parties**

17 1. **IT IS FURTHER ORDERED** that any person, business, or
18 other entity (e.g., Google, Go Daddy, HostMonster, Facebook or
19 Rackspace) that is hosting, storing, or otherwise maintaining e-
20 mails or other electronic data related to National Card Monitor
21 LLC or Nationwide Credit Monitor shall preserve and retain
22 within its control all such data and prevent the deletion or
23 modification of such data. Without limitation, this subpart
24 specifically applies to all e-mails sent to or from
25 <NCM.customerservice@gmail.com>; to all e-mails sent to or
26 from <jeri12@cox.net>; and to all **documents** that have been or
27 are displayed on or have been or are accessible from the websites
28 with the following domain names: (1) nationalcardmonitor.com;

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or (2) nationwidecardmonitor.com. Any person, business, or other entity that is hosting any website used by Defendants for the advertising, marketing, promotion, offering for sale, or sale of any **credit-related good or service**, including, but not limited to nationalcardmonitor.com and nationwidecardmonitor.com, shall prevent the destruction or erasure of any such website by preserving such website in the format in which it was maintained as of the date of receipt of this Order.

2. **IT IS FURTHER ORDERED** that any person, business or other entity (including without limitation any storage company, private mail-box operator, accounting firm or income-tax preparer) that has in its possession, custody or control any non-electronic documents that belong to, are in the name of, are held for the benefit of, or are under the direct or indirect control of National Card Monitor LLC, Nationwide Card Monitor, or James Eric Cox, shall preserve and retain within its control all such **documents** and deny access to such **documents**, unless access is specifically authorized in writing by counsel for **Plaintiff**, by the Temporary Receiver (with respect to **assets** of any of the **Receivership Defendants**), or by further order of this Court; provided, however, that nothing in this paragraph shall be construed as prohibiting delivery of receivership property to the Temporary Receiver in accordance with Section XVI.A of this Order, below.

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VII.

IMMEDIATE ACCESS BY PLAINTIFF
TO DEFENDANTS' RECORDS

IT IS FURTHER ORDERED that:

A. **Defendants** and their successors, assigns, officers, agents, servants, employees, and attorneys, and those **persons** in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, and the Temporary Receiver, shall allow **Plaintiff's** representatives, agents, and assistants immediate access to the business premises, mail drops, storage facilities, and all other business locations owned, controlled, or used by **Defendants**, including, but not limited to, business premises at 500 West Southern Ave., Suites 15-17, Mesa, Arizona 85210. The purpose of the access shall be to effect service and to inspect and copy materials relevant to this action.

1. **Plaintiff** shall have the right to remove **documents** from **Defendants'** premises in order that they may be inspected, inventoried, and copied. **Plaintiff** shall return any such removed **documents** within three (3) business days after removal, or such other time-period that is agreed upon by **Plaintiff** and **Defendants**.
2. **Defendants** shall provide **Plaintiff** with the means necessary to access **documents** relating to the business and finances of **NCM**, including without limitation keys and combinations to locks, computer access codes, passwords (including without limitation passwords to business-related e-mail accounts), and storage-area access information.
3. **Plaintiff** and the Temporary Receiver are authorized to request

1 and employ the assistance of law enforcement officers, including
2 but not limited to the United States Postal Inspection Service and
3 local police, to help keep the peace during service of this Order
4 and to help ensure the peaceful transition of control;

5 B. The Temporary Receiver shall subsequently allow the
6 Commission's representatives and **Defendants** and their representatives
7 reasonable access to the business premises of the **Receivership Defendants**.
8 The purpose of this access shall be to inspect and copy any and all books,
9 records, accounts, and other property owned by or in the possession of the
10 Receivership Defendant. The Temporary Receiver shall have the discretion to
11 determine the time and manner of this access;

12 C. If, at the time of service of this Order, any records or property
13 relating to **NCM** or to any **Defendant's assets** are located in the personal
14 residence of Defendant Cox, or in any other non-business location under the
15 personal control of Defendant Cox, then Defendant Cox shall immediately so
16 advise the Commission's representatives and the Temporary Receiver, and,
17 within forty-eight (48) hours of service of this Order, produce to **Plaintiff**, at a
18 location designated by **Plaintiff**, the following:

19 1. All contracts, accounting data, written or electronic
20 correspondence, advertisements, computer tapes, discs, or other
21 computerized or electronic records, books, written or printed
22 records, handwritten notes, telephone logs, telephone scripts,
23 telephone bills, receipt books, ledgers, customer records and lists,
24 refund records, receipts, ledgers, bank records (including personal
25 and business monthly statements, canceled checks, records of
26 wire transfers, and check registers), appointment books, copies of
27 federal, state, and local business or personal income or property
28 tax returns, 1099 forms, title records, and other **documents** or

- 1 records of any kind that relate to **Defendants'** business and
2 **assets**; and
- 3 2. All computers and data in whatever form, used by **Defendants**, in
4 whole or in part, relating to **Defendants'** business and **assets**;
- 5 D. **Defendants** shall provide the Commission access, and cooperate
6 in obtaining access for the Commission, to records and **documents** pertaining
7 to **assets** of any of the **Defendants** that are held by financial institutions
8 outside the territory of the United States, including but not limited to
9 cooperating by signing a Consent to Release of Financial Records if requested
10 by **Plaintiff**;
- 11 E. Within one (1) day of service of this Order, Defendants shall:
- 12 1. notify counsel for the Commission of the name and location of
13 any person or entity (e.g., Google, Go Daddy, HostMonster,
14 Facebook or Rackspace) that is hosting, storing, or otherwise
15 maintaining electronic data related to **NCM** or to any other of
16 **Defendants' credit-related goods or services**;
- 17 2. serve this Order on any such person or entity;
- 18 3. cooperate in providing access to such data to the Commission and
19 its attorneys and agents, including but not limited to executing
20 any documents necessary to facilitate this access; and
- 21 4. identify for **Plaintiff** all mobile computing devices (e.g.,
22 cellphone, smartphone, iphone, blackberry) that may contain data
23 related to **NCM** or to any other of **Defendants' credit-related**
24 **goods or services**;
- 25 F. To the extent that any Defendant owns or has control over any e-
26 mail account (including without limitation
27 <NCM.customerservice@gmail.com> or <jeric12@cox.net>) that Defendant
28 Cox, any employee of **NCM**, or any other person has used for purposes

1 relating to the business of **NCM**, including but not limited to communicating
2 with any of **NCM**'s employees, customers, suppliers, banks, or credit-card
3 processors, **Defendants** shall, within two business days after service of this
4 Order, provide **Plaintiff** with electronic copies, or the means to access
5 electronic copies, of all business-related e-mails, and shall cooperate with
6 **Plaintiff** to ensure that the form in which such emails are produced is
7 reasonably accessible by **Plaintiff**; and

8 G. The FTC's access to the **Defendants'** documents pursuant to this
9 Section shall not provide grounds for any Defendant to object to any
10 subsequent request for **documents** served by the FTC under Fed.R.Civ.P. 34.

11 **VIII.**

12 **RESPONSIBILITIES OF FINANCIAL INSTITUTIONS AND OTHER**
13 **ENTITIES HOLDING DEFENDANTS' ASSETS**

14 **IT IS FURTHER ORDERED** that any financial or brokerage
15 institution, any business entity, or any other person having possession,
16 custody, or control of any account, safe deposit box, funds, property, coins, list
17 of consumer names, stock certificates, or any other **asset** owned by or titled in
18 the name of any of the **Defendants**, either individually or jointly or held for
19 the benefit of any of the **Defendants**, or which has maintained any such
20 account, safe deposit box, or other **asset** at any time since **December 1, 2010**,
21 shall:

22 A. Hold and retain within its control and prohibit the transfer,
23 encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale, or
24 other disposal of any such account or other **asset**, except for transfers or
25 withdrawals authorized in writing by counsel for **Plaintiff**, by the Temporary
26 Receiver (with respect to **assets** of any of the **Receivership Defendants**), or
27 by further order of this Court. This provision specifically applies to, but is not
28 limited to, funds held in account numbers ending in 2433 and 2561 at

1 JPMorgan Chase Bank;

2 B. Deny access to any safe deposit box titled individually or jointly
3 in the name of, or otherwise subject to access by, any of the **Defendants**;

4 C. Provide to **Plaintiff** and to the Temporary Receiver, within three
5 (3) business days of receiving notice of this Order, a sworn statement setting
6 forth:

- 7 1. The identification of each account or **asset**;
- 8 2. The balance of each account or a description of the nature and
9 value of each **asset** as of the close of business on the day
10 notification of this Order is received, and, if the account or **asset**
11 has been closed or moved, the balance or value removed and the
12 person or entity to whom it was transferred; and
- 13 3. The identification of any safe deposit box titled in the name of or
14 subject to access by any of the **Defendants**;

15 D. With respect to any bank account or other financial account for
16 which online account access has been available to the **Receivership**
17 **Defendants**, provide to the Temporary Receiver, within one (1) business day
18 of receiving notice of this Order and a request from the Temporary Receiver,
19 the means or ability to sign on to the bank's (or other financial institution's)
20 website and view account activity, account balances, and all other information
21 that was available to the Defendant as of the date of the Order.

22 E. Upon request by counsel for **Plaintiff** (or by the Temporary
23 Receiver, with respect to **assets** held for any of the **Receivership**
24 **Defendants**), promptly provide **Plaintiff** (or, if applicable, the Temporary
25 Receiver) with copies of all records or other documentation pertaining to such
26 account or **asset**, including but not limited to originals or copies of account
27 applications, account statements, signature cards, checks, drafts, deposit
28 tickets, transfers to and from the accounts, all other debit and credit

1 instruments or slips, currency transaction reports, 1099 forms, and safe deposit
2 box logs; and

3 F. At the direction of **Plaintiff** (or the Temporary Receiver, with
4 respect to **assets** held for any of the **Receivership Defendants**), and without
5 further order of this Court, convert any stocks, bonds, options, mutual funds,
6 or other securities to their cash equivalents.

7 **IX.**

8 **PROHIBITION ON RELEASE OF**
9 **CUSTOMER INFORMATION OR CUSTOMERS LISTS**

10 **IT IS FURTHER ORDERED** that **Defendants**, and officers, agents,
11 directors, servants, employees, salespersons, and attorneys of **Defendants**, as
12 well as all other **persons** or entities in active concert or participation with
13 them, who receive actual notice of this Order by personal service or otherwise,
14 whether acting directly or through any trust, corporation, subsidiary, division,
15 or other device, or any of them, are hereby temporarily restrained and enjoined
16 from selling, renting, leasing, transferring, or otherwise disclosing the name,
17 address, telephone number, credit card number, bank account number, e-mail
18 address, or other identifying information of any person who paid money to any
19 of the **Defendants** for the purchase of any good or service or who were
20 contacted or are on a list to be contacted by any of the **Defendants**; provided
21 that **Defendants** may disclose such identifying information to a law
22 enforcement agency or as required by any law, regulation, or court order.

23 **X.**

24 **RECORD KEEPING**

25 **IT IS FURTHER ORDERED** that Defendant Cox is hereby
26 temporarily restrained and enjoined from failing to make and keep, and to
27 provide to **Plaintiff's** counsel promptly upon request, an accurate accounting
28 that, in reasonable detail, accurately, fairly, and completely reflects Defendant

1 Cox's incomes, disbursements, transactions, and use of money, beginning
2 immediately upon service or actual notice of this Order, and continuing daily
3 until otherwise ordered by the Court. Income to be accounted for shall
4 include, without limitation, all receipts from any source, including gifts, loan
5 proceeds, wages or any other income resulting from any services, activity, or
6 efforts rendered by Defendant, and any income that is paid to any trust,
7 business, or other entity or device that is directly or indirectly under the
8 control of Defendant Cox, to any family member, or to any other person or
9 entity for the benefit of Defendant Cox.

10 **XI.**

11 **NOTIFICATION OF BUSINESS ACTIVITIES**

12 **IT IS FURTHER ORDERED** that:

13 A. Defendant Cox is hereby temporarily restrained and enjoined
14 from directly or indirectly creating, operating, or exercising any control over
15 any business entity, including any partnership, limited partnership, joint
16 venture, sole proprietorship or corporation, without first serving on counsel for
17 the Commission a written statement disclosing the following: (1) the name of
18 the business entity; (2) the address and telephone number of the business
19 entity; (3) the names of the business entity's officers, directors, principals,
20 managers and employees; and (4) a detailed description of the business
21 entity's intended or actual activities; and

22 B. Defendant Cox shall notify the Commission at least seven (7)
23 days prior to affiliating with, becoming employed by, or performing any work
24 for any business that is not a named Defendant in this action. Each notice
25 shall include the Defendant's new business address and a statement of the
26 nature of the business or employment and the nature of his or her duties and
27 responsibilities in connection with that business or employment.
28

1 under the direction, possession, custody, or control of the **Receivership**
2 **Defendants;**

3 C. Take all steps necessary to secure all premises owned, rented,
4 leased, or otherwise controlled by the **Receivership Defendants**, including but
5 not limited to all such premises located at 500 West Southern Ave., Suites 15-
6 17, Mesa, Arizona 85210. Such steps may include, but are not limited to, the
7 following, as the Temporary Receiver deems necessary or advisable: (1)
8 serving and filing this Order; (2) completing a written inventory of all
9 receivership **assets**; (3) obtaining pertinent information from all employees
10 and other agents of the **Receivership Defendants**, including, but not limited
11 to, the name, home address, social security number, job description, method of
12 compensation, and all accrued and unpaid commissions and compensation of
13 each such employee or agent; (4) photographing and video taping all portions
14 of the location; (5) securing the location by changing the locks and
15 disconnecting any computer modems or other means of access to the computer
16 or other records maintained at that location; or (6) requiring any **persons**
17 present on the premises at the time this Order is served to leave the premises,
18 to provide the Temporary Receiver with proof of identification, or to
19 demonstrate to the satisfaction of the Temporary Receiver that such persons
20 are not removing from the premises **documents** or **assets** of the **Receivership**
21 **Defendants;**

22 D. Conserve, hold, and manage all receivership **assets**, and perform
23 all acts necessary or advisable to preserve the value of those **assets**, in order to
24 prevent any irreparable loss, damage, or injury to consumers or to creditors of
25 the **Receivership Defendants**, including, but not limited to, obtaining an
26 accounting of the **assets** and preventing transfer, withdrawal, or misapplication
27 of **assets**;

28 E. Enter into contracts and purchase insurance as advisable or

1 necessary;

2 F. Prevent the inequitable distribution of **assets** and to determine,
3 adjust, and protect the interests of consumers and creditors who have
4 transacted business with the **Receivership Defendants**;

5 G. Manage and administer the business of the **Receivership**
6 **Defendants** until further order of this Court by performing all incidental acts
7 that the Temporary Receiver deems to be advisable or necessary, which
8 includes retaining, hiring, or dismissing any employees, independent
9 contractors, or agents;

10 H. Choose, engage, and employ attorneys, accountants, appraisers,
11 and other independent contractors and technical specialists, as the Temporary
12 Receiver deems advisable or necessary in the performance of his or her duties
13 and responsibilities under the authority granted by this Order;

14 I. Make payments and disbursements from the receivership estate
15 that are necessary or advisable for carrying out the directions of, or exercising
16 the authority granted by, this Order. The Temporary Receiver shall apply to
17 the Court for prior approval of any payment of any debt or obligation incurred
18 by the **Receivership Defendants** prior to the date of entry of this Order,
19 except payments that the Temporary Receiver deems necessary or advisable to
20 secure **assets** of the **Receivership Defendants**, such as rental payments;

21 J. Determine and implement the manner in which the **Receivership**
22 **Defendants** will comply with, and prevent violations of, this Order and all
23 other applicable laws;

24 K. Institute, compromise, adjust, appear in, intervene in, or become
25 party to such actions or proceedings in state, federal or foreign courts that the
26 Temporary Receiver deems necessary and advisable to preserve or recover the
27 **assets** of the **Receivership Defendants** or that the Temporary Receiver deems
28 necessary and advisable to carry out the Temporary Receiver's mandate under

1 this Order;

2 L. Defend, compromise, adjust, or otherwise dispose of any or all
3 actions or proceedings instituted in the past or in the future against the
4 Temporary Receiver in his role as Temporary Receiver, or against the
5 **Receivership Defendants** that the Temporary Receiver deems necessary and
6 advisable to preserve the **assets** of the **Receivership Defendants** or that the
7 Temporary Receiver deems necessary and advisable to carry out the
8 Temporary Receiver's mandate under this Order;

9 M. Issue subpoenas to obtain **documents** and records pertaining to
10 the receivership, and conduct discovery in this action on behalf of the
11 receivership estate;

12 N. Open one or more bank accounts as designated depositories for
13 funds of the **Receivership Defendants**. The Temporary Receiver shall
14 deposit all funds of the **Receivership Defendants** in such a designated
15 account and shall make all payments and disbursements from the receivership
16 estate from such an account; and

17 O. Maintain accurate records of all receipts and expenditures that he
18 makes as Temporary Receiver.

19 **XIV.**

20 **TEMPORARY RECEIVER'S REPORT**

21 **IT IS FURTHER ORDERED** that the Temporary Receiver shall file
22 and serve on the parties a preliminary report, based on such investigation and
23 review of the Defendants' records as is practicable, by 4:30 p.m. on the fourth
24 court day before the date of the Preliminary Injunction, as scheduled in
25 Section XXVI of this Order, below. The Temporary Receiver's report shall
26 advise the Court as to: (a) the steps taken by the Temporary Receiver to
27 implement the terms of this Order; (b) the value of all liquidated and
28 unliquidated assets of the Receivership Defendants; (c) the sum of all

1 liabilities of the Receivership Defendants; (d) any other matters that the
2 Temporary Receiver believes should be brought to the Court's attention. The
3 Report may be filed under seal if the Temporary Receiver believes filing under
4 seal is necessary to protect any sensitive information. If filed under seal, a
5 copy must still be served on Defendants.

6 **XV.**

7 **COOPERATION WITH THE TEMPORARY RECEIVER**

8 **IT IS FURTHER ORDERED** that **Defendants**, and their agents,
9 servants, employees, and attorneys, and all **persons** or entities directly or
10 indirectly under the control of any of them, and all other **persons** or entities in
11 active concert or participation with any of them who receive actual notice of
12 this Order by personal service or otherwise, and each such person, shall fully
13 cooperate with and assist the Temporary Receiver. Such cooperation and
14 assistance shall include, but not be limited to, providing any information to the
15 Temporary Receiver that the Temporary Receiver deems necessary to
16 exercising the authority and discharging the responsibilities of the Temporary
17 Receiver under this Order; providing any username and password required to
18 access any computer or electronic files, in any medium; providing any key
19 required to gain access to any and all offices, rooms, storage facilities, mail
20 boxes, or other physical locations at which **documents** or **assets** belonging to
21 **NCM** may be found; or advising all persons who owe money to the
22 **Receivership Defendants** that all debts should be paid directly to the
23 Temporary Receiver.

24 **Defendants** are hereby temporarily restrained and enjoined from
25 directly or indirectly:

26 A. Transacting any of the business of the **Receivership Defendants**,
27 or transacting business under the name National Card Monitor LLC,
28 Nationwide Card Monitor, or any substantially similar name;

1 B. Destroying, concealing, defacing, transferring, or otherwise
2 altering or disposing of any **documents** of the **Receivership Defendants**,
3 including, but not limited to, books, records, accounts, or any other papers of
4 any kind or nature;

5 C. Transferring, receiving, altering, selling, encumbering, pledging,
6 assigning, liquidating, or otherwise disposing of any **assets** owned, controlled,
7 or in the possession or custody of, or in which an interest is held or claimed
8 by, the **Receivership Defendants**, or the Temporary Receiver;

9 D. Excusing debts owed to the **Receivership Defendants**;

10 E. Failing to notify the Temporary Receiver of any asset, including
11 accounts, of any Receivership Defendant held in any name other than the
12 name of any Receivership Defendant, or by any person or entity other than the
13 **Receivership Defendants**, or failing to provide any assistance or information
14 requested by the Temporary Receiver in connection with obtaining possession,
15 custody, or control of such **assets**;

16 F. Failing to:

- 17 1. inform the Temporary Receiver of all addresses, including Post
18 Office boxes and commercial mail boxes, at which mail
19 addressed to National Card Monitor or Nationwide Card Monitor,
20 or mail relating to the business or finances of **NCM** or
21 Nationwide, is received; and
22 2. cooperate in providing the Temporary Receiver access to all such
23 mail and ensuring that the Temporary Receiver is able to divert
24 and obtain such mail from the Post Office or other mail box
25 provider; or

26 G. Doing any act or refraining from any act whatsoever to interfere
27 with the Temporary Receiver's taking custody, control, possession, or
28 managing of the **assets** or **documents** subject to this receivership; or to harass

1 or interfere with the Temporary Receiver in any way; or to interfere in any
2 manner with the exclusive jurisdiction of this Court over the **assets** or
3 **documents** of the **Receivership Defendants**; or to refuse to cooperate with
4 the Temporary Receiver or the Temporary Receiver's duly authorized agents
5 in the exercise of their duties or authority under any Order of this Court.

6 **XVI.**

7 **DELIVERY OF RECEIVERSHIP PROPERTY**

8 **IT IS FURTHER ORDERED** that:

9 A. Immediately upon service of this Order upon them, or within a
10 period permitted by the Temporary Receiver, **Defendants** and all other
11 **persons** and entities in possession, custody, and control of **assets** or
12 **documents** of the **Receivership Defendants** shall transfer or deliver
13 possession, custody, and control of the following to the Temporary Receiver:

- 14 1. All **assets** of the **Receivership Defendants**;
- 15 2. All **documents** of the **Receivership Defendants**, including, but
16 not limited to, books and records of accounts, all financial and accounting
17 records, balance sheets, income statements, bank records (including monthly
18 statements, canceled checks, records of wire transfers, and check registers),
19 client lists, title **documents** and other papers;
- 20 3. All **assets** belonging to members of the public now held by the
21 **Receivership Defendants**; and
- 22 4. All keys and codes necessary to gain or to secure access to any
23 **assets** or **documents** of the **Receivership Defendants**, including, but not
24 limited to, access to their business premises, mail, means of communication,
25 accounts, computer systems, Receivership-Defendant-related e-mails
26 (including but not limited to e-mails sent to or from
27 NCM.customerservice@gmail.com) or other property.

28 B. In the event any person or entity fails to deliver or transfer any

1 asset or otherwise fails to comply with any provision of this Section, the
2 Temporary Receiver may file, on an *ex parte* basis, an Affidavit of Non-
3 Compliance regarding the failure. Upon filing of the affidavit, the Court may
4 authorize, without additional process or demand, Writs of Possession or
5 Sequestration or other equitable writs requested by the Temporary Receiver.
6 The writs shall authorize and direct the United States Marshal or any sheriff or
7 deputy sheriff of any county to seize the asset, document, or other thing and to
8 deliver it to the Temporary Receiver.

9 **XVII.**

10 **BANKRUPTCY PETITIONS**

11 **IT IS FURTHER ORDERED** that, in light of the asset freeze and
12 appointment of the Temporary Receiver, **Defendants** are hereby prohibited
13 from filing, or causing to be filed, on behalf of any Receivership Defendant, a
14 petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 *et*
15 *seq.*, without prior permission from this Court.

16 **IT IS FURTHER ORDERED** that, in light of the asset freeze,
17 Defendant Cox must give 21 days' notice to **Plaintiff** prior to filing, or
18 causing to be filed, on his own behalf, a petition for relief under the United
19 States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*

20 **XVIII.**

21 **TRANSFER OF FUNDS TO THE TEMPORARY RECEIVER**

22 **IT IS FURTHER ORDERED** that, upon service of a copy of this
23 Order, all banks, broker-dealers, savings and loans, escrow agents, title
24 companies, commodity trading companies, or other financial institutions shall
25 cooperate with all reasonable requests of the Temporary Receiver relating to
26 implementation of this Order, including transferring funds at his or her
27 direction and producing records related to the **assets of the Receivership**
28 **Defendants.**

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XIX.

STAY OF ACTIONS

IT IS FURTHER ORDERED that:

A. Except by leave of this Court, during pendency of the receivership ordered herein, **Defendants** and all other persons and entities (except for **Plaintiff**) are hereby stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of National Card Monitor LLC or Nationwide Credit Monitor, in the name of any of **NCM's assets**, or in the name of the Temporary Receiver or the Temporary Receiver's duly authorized agents acting in their capacities as such, including, but not limited to, the following actions:

1. Commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
2. Accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
3. Executing, issuing, serving, or causing the execution, issuance or service of, any legal process, including, but not limited to, attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether specified in this Order or not; or
4. Doing any act or thing whatsoever to interfere with the Temporary Receiver taking custody, control, possession, or management of the **assets** or **documents** subject to this

1 receivership, or to harass or interfere with the Temporary
2 Receiver in any way, or to interfere in any manner with the
3 exclusive jurisdiction of this Court over the **assets** or **documents**
4 of the **Receivership Defendants**.

5 B. Paragraph (A) of this Section does not stay:

- 6 1. The commencement or continuation of a criminal action or
7 proceeding;
- 8 2. The commencement or continuation of an action or proceeding by
9 a governmental unit to enforce such governmental unit's police or
10 regulatory power;
- 11 3. The enforcement of a judgment, other than a money judgment,
12 obtained in an action or proceeding by a governmental unit to
13 enforce such governmental unit's police or regulatory power;
- 14 4. The commencement of any action by the Secretary of the United
15 States Department of Housing and Urban Development to
16 foreclose a mortgage or deed of trust in any case in which the
17 mortgage or deed of trust held by the Secretary is insured or was
18 formerly insured under the National Housing Act and covers
19 property, or combinations of property, consisting of five or more
20 living units; or
- 21 5. The issuance to a Receivership Defendant of a notice of tax
22 deficiency.

23 C. Except as otherwise provided in this Order, all persons and
24 entities in need of documentation from the Temporary Receiver shall in all
25 instances first attempt to secure such information by submitting a formal
26 written request to the Temporary Receiver, and, if such request has not been
27 responded to within thirty (30) days of receipt by the Temporary Receiver, any
28 such person or entity may thereafter seek an order of this Court with regard to

1 the relief requested.

2 **XX.**

3 **COMPENSATION OF TEMPORARY RECEIVER**

4 **IT IS FURTHER ORDERED** that the Temporary Receiver and all
5 personnel hired by the Temporary Receiver as herein authorized, including
6 counsel to the Temporary Receiver and accountants, are entitled to reasonable
7 compensation for the performance of duties pursuant to this Order and for the
8 cost of actual out-of-pocket expenses incurred by them, from the **assets** now
9 held by or in the possession or control of or which may be received by the
10 **Receivership Defendants**. The Temporary Receiver shall file with the Court
11 and serve on the parties periodic requests for the payment of such reasonable
12 compensation, with the first such request filed no more than sixty days after
13 the date of this Order. The Temporary Receiver shall not increase the hourly
14 rates used as the bases for such fee applications without prior approval of the
15 Court.

16 **XXI.**

17 **RECEIVER'S BOND**

18 **IT IS FURTHER ORDERED** that the Temporary Receiver shall file
19 with the Clerk of this Court a bond in the sum of \$50,000.00, with sureties to
20 be approved by the Court, conditioned that the Temporary Receiver will well
21 and truly perform the duties of the office and abide by and perform all acts the
22 Court directs.

23 **XXII.**

24 **DISTRIBUTION OF ORDER**

25 **IT IS FURTHER ORDERED** that Defendant Cox shall immediately
26 provide a copy of this Order to each of NCM's affiliates, franchises,
27 subsidiaries, divisions, successors, assigns, directors, officers, members,
28 managing agents, employees, representatives, and independent contractors and

1 shall, within three (3) business days from the date of service of this Order,
2 serve on **Plaintiff** affidavits identifying the names, titles, addresses, and
3 telephone numbers of the persons and entities whom he has served pursuant to
4 this provision. The Temporary Receiver has no obligation under this
5 provision.

6 **XXIII.**

7 **CREDIT REPORTS**

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

13 **XXIV.**

14 **LIMITED EXPEDITED DISCOVERY**

15 **IT IS FURTHER ORDERED** that:

16 A. The Commission is granted leave at any time after service of this
17 Order to:

- 18 1. Take the deposition of any person or entity, demand the
19 production of documents from of any person or entity, or
20 propound up to ten (10) interrogatories to each Defendant, for the
21 purpose of:
 - 22 a. discovering the nature, location, status, and extent of assets
23 of any of the Defendants, including Receivership
24 Defendants, or of their affiliates or of their subsidiaries,
 - 25 b. discovering the nature, location, status and extent of
26 documents reflecting the business transactions of any of the
27 Defendants;

28

1 c. discovering the nature and extent of Defendants' business
2 activities;

3 B. Thirty-six (36) hours notice shall be deemed sufficient for any
4 such deposition and forty-eight (48) hours notice shall be deemed sufficient
5 for the production of any such documents. Defendants shall serve answers and
6 objections to interrogatories by no later than the close of the third business
7 day after service of the interrogatories, or by such later date as **Plaintiff** may
8 specify.

9 C. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)
10 and 31(a)(2) shall not apply to depositions taken pursuant to this Section. Any
11 such depositions taken pursuant to this Section shall not be counted toward the
12 ten-deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A).

13 D. Any interrogatories that **Plaintiff** propounds pursuant to this
14 Section shall not be counted toward the 25-interrogatory limit set forth in Fed.
15 R. Civ. P. 33(a)(1).

16 E. Service of discovery taken pursuant to this Section shall be
17 sufficient if made by facsimile or by overnight delivery by a commercial
18 delivery service.

19 **XXV.**

20 **CORRESPONDENCE**

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

23
24 Barbara Y.K. Chun
25 John D. Jacobs
26 Federal Trade Commission
27 10877 Wilshire Blvd., #700
28 Los Angeles, CA 90024
Fax: (310) 824-4380
E-mail: bchun@ftc.gov; jjacobs@ftc.gov

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XXVI.

PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that Defendants National Card Monitor LLC and James Eric Cox shall appear before this Court, located at 401 W. Washington Street, Phoenix, Arizona, 85003, Courtroom 503, on the 11th day of December, 2012, at 3:30 p.m., to oppose the entry of a preliminary injunction, pending final ruling on the Complaint, against said **Defendants** enjoining them from violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) or the Telemarketing Sales Rule, 16 .C.F.R. Part 310, imposing such additional relief as may be appropriate, and appointing a permanent receiver over Defendant National Card Monitor LLC.

IT IS FURTHER ORDERED that, in support of its application for a preliminary injunction, **Plaintiff** may submit supplemental evidence discovered subsequent to the filing of its application for a TRO, as well as a supplemental memorandum. **Plaintiff** shall file and serve any supplemental evidence and memorandum by no later than 4:30 p.m. Mountain Standard Time on November 30, 2012. Such **documents** may be served on each Defendant by e-mailing, faxing or delivering the document(s) to the attorney for the Defendant, or, if the Defendant is not represented by counsel, to a fax number or e-mail address previously designated by the Defendant in writing to counsel for **Plaintiff**; if the Defendant has not so designated a fax number or e-mail address, service may be effected by mailing the **documents** to an address designated in writing by the Defendant to counsel for **Plaintiff**; if no address has been so designated, service shall be complete upon filing of the **documents** with this Court.

IT IS FURTHER ORDERED that **Defendants** shall file and serve any opposition to the issuance of a preliminary injunction and the appointment of a permanent receiver over the **Receivership Defendants**, including any

1 declarations, exhibits, memoranda or other evidence on which they intend to
2 rely, and objections to any evidence submitted by **Plaintiff**, by no later than
3 4:30 p.m. MST on December 4, 2012. Such **documents** may be served by e-
4 mail or fax upon **Plaintiff's** counsel.

5 **IT IS FURTHER ORDERED** that **Plaintiff** shall file and serve any
6 reply to **Defendants'** opposition by no later than noon on December 7, 2012.

7 **IT IS FURTHER ORDERED** that there will be no direct examination
8 of witnesses at the preliminary injunction hearing in this matter. Direct
9 testimony shall be presented in the form of declarations or affidavits. In ruling
10 on whether a preliminary injunction shall issue, the Court will consider
11 declarations or affidavits that have been filed in a timely manner prior to the
12 preliminary injunction hearing without further need of any party moving such
13 **documents** into evidence.

14 **XXVII.**

15 **EXPIRATION**

16 **IT IS FURTHER ORDERED** that this Order shall expire as to each
17 Defendant fourteen (14) calendar days after entry unless, within such time, for
18 good cause shown, it is extended for a like period, or unless the Defendant
19 consents that it may be extended for a longer period and the reasons therefor
20 are entered of record.

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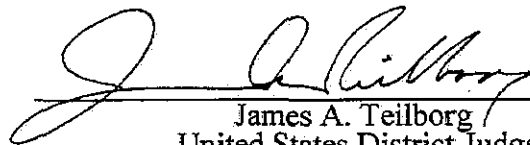
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XXVIII.

SERVICE OF THIS ORDER

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any **documents or assets** of any Defendant, or that may be subject to any provision of this Order.

DATED this 27th day of November, 2012 at 1:20 p.m


James A. Teilborg
United States District Judge

Copies to Plaintiff's counsel only (distributed in court)

I hereby attest and certify on 11/26/12
that the foregoing document is a full, true and correct
copy of the original on file in my office and in my custody.

**CLERK, U.S. DISTRICT COURT
DISTRICT OF ARIZONA**

By V. Bann Deputy

FINANCIAL STATEMENT OF INDIVIDUAL DEFENDANT

Definitions and Instructions:

1. Complete all items. Enter "None" or "N/A" ("Not Applicable") in the first field only of any item that does not apply to you. If you cannot fully answer a question, explain why.
2. "Dependents" include your spouse, live-in companion, dependent children, or any other person, whom you or your spouse (or your children's other parent) claimed or could have claimed as a dependent for tax purposes at any time during the past five years.
3. "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or any foreign country or territory, whether held individually or jointly and whether held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.
4. Attach continuation pages as needed. On the financial statement, state next to the Item number that the Item is being continued. On the continuation page(s), identify the Item number(s) being continued.
5. Type or print legibly.
6. Initial each page in the space provided in the lower right corner.
7. Sign and date the completed financial statement on the last page.

Penalty for False Information:

Federal law provides that any person may be imprisoned for not more than five years, fined, or both, if such person:

(1) "in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry" (18 U.S.C. § 1001);

(2) "in any . . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true" (18 U.S.C. § 1621); or

(3) "in any (. . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration" (18 U.S.C. § 1623).

For a felony conviction under the provisions cited above, federal law provides that the fine may be not more than the greater of (i) \$250,000 for an individual or \$500,000 for a corporation, or (ii) if the felony results in pecuniary gain to any person or pecuniary loss to any person other than the defendant, the greater of twice the gross gain or twice the gross loss. 18 U.S.C. § 3571.

BACKGROUND INFORMATION

Item 1. Information About You

Full Name	Social Security No.		
Current Address of Primary Residence	Driver's License No.		State Issued
	Phone Numbers Home: ()	Date of Birth: / / (mm/dd/yyyy)	
	Fax: ()	Place of Birth	
<input type="checkbox"/> Rent <input type="checkbox"/> Own From (Date): / / (mm/dd/yyyy)	E Mail Address		
Internet Home Page			

Previous Addresses for past five years (if required, use additional pages at end of form)

Address	From: / / (mm/dd/yyyy)	Until: / / (mm/dd/yyyy)
	<input type="checkbox"/> Rent <input type="checkbox"/> Own	
Address	From: / /	Until: / /
	<input type="checkbox"/> Rent <input type="checkbox"/> Own	
Address	From: / /	Until: / /
	<input type="checkbox"/> Rent <input type="checkbox"/> Own	

Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used:

Item 2. Information About Your Spouse or Live-In Companion

Spouse/Companion's Name	Social Security No.	Date of Birth / / (mm/dd/yyyy)
Address (if different from yours)	Phone Number ()	Place of Birth
	<input type="checkbox"/> Rent <input type="checkbox"/> Own From (Date): / / (mm/dd/yyyy)	

Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used:

Employer's Name and Address	Job Title	
	Years in Present Job	Annual Gross Salary/Wages \$

Item 3. Information About Your Previous Spouse

Name and Address	Social Security No.
	Date of Birth / / (mm/dd/yyyy)

Item 4. Contact Information (name and address of closest living relative other than your spouse).

Name and Address	Phone Number ()
------------------	---------------------

Initials: _____

Item 5. Information About Dependents (whether or not they reside with you)		
Name and Address	Social Security No.	Date of Birth / / (mm/dd/yyyy)
	Relationship	
Name and Address	Social Security No.	Date of Birth / / (mm/dd/yyyy)
	Relationship	
Name and Address	Social Security No.	Date of Birth / / (mm/dd/yyyy)
	Relationship	
Name and Address	Social Security No.	Date of Birth / / (mm/dd/yyyy)
	Relationship	

Item 6. Employment Information/Employment Income				
Provide the following information for this year to date and for each of the previous five full years, for each business entity of which you were a director, officer, member, partner, employee (including self employment), agent, owner, shareholder, contractor, participant or consultant at any time during that period. "Income" includes, but is not limited to, any salary, commissions, distributions, draws, consulting fees, loans, loan payments, dividends, royalties, and benefits for which you did not pay (e.g., health insurance premiums, automobile lease or loan payments) received by you or anyone else on your behalf.				
Company Name and Address	Dates Employed		Income Received: This year to date	
	From (Month/Year) / /	To (Month/Year) / /	Year	Income
Ownership Interest? <input type="checkbox"/> Yes <input type="checkbox"/> No			20	\$
Positions Held	From (Month/Year) / /	To (Month/Year) / /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$
Company Name and Address				
Dates Employed		Income Received: This year to date		
From (Month/Year) / /	To (Month/Year) / /	Year	Income	
Ownership Interest? <input type="checkbox"/> Yes <input type="checkbox"/> No		20	\$	
Positions Held	From (Month/Year) / /	To (Month/Year) / /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$
Company Name and Address				
Dates Employed		Income Received: This year to date		
From (Month/Year) / /	To (Month/Year) / /	Year	Income	
Ownership Interest? <input type="checkbox"/> Yes <input type="checkbox"/> No		20	\$	
Positions Held	From (Month/Year) / /	To (Month/Year) / /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$
	/ /	/ /		\$

Initials: _____

Item 7. Pending Lawsuits Filed By or Against You or Your Spouse

List all pending lawsuits that have been filed by or against you or your spouse in any court or before an administrative agency in the United States or in any foreign country or territory. **Note:** At Item 12, list lawsuits that resulted in final judgments or settlements in your favor. At Item 21, list lawsuits that resulted in final judgments or settlements against you.

Caption of Proceeding	Court or Agency and Location	Case No.	Nature of Proceeding	Relief Requested	Status or Disposition

Item 8. Safe Deposit Boxes

List all safe deposit boxes, located within the United States or in any foreign country or territory, whether held individually or jointly and whether held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents.

Name of Owner(s)	Name & Address of Depository Institution	Box No.	Contents

Initials: _____

FINANCIAL INFORMATION

REMINDER: When an item asks for information regarding your assets and liabilities include ALL assets and liabilities located within the United States or in any foreign country or territory, or institution, whether held individually or jointly, and whether held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents. In addition, provide all documents requested in Item 24 with your completed Financial Statement.

ASSETS

Item 9. Cash, Bank, and Money Market Accounts

List cash on hand (as opposed to cash in bank accounts or other financial accounts) and all bank accounts, money market accounts, or other financial accounts, including but not limited to checking accounts, savings accounts, and certificates of deposit. The term "cash on hand" includes but is not limited to cash in the form of currency, uncashed checks, and money orders.

a. Amount of Cash on Hand \$		Form of Cash on Hand	
b. Name on Account	Name & Address of Financial Institution	Account No.	Current Balance
			\$
			\$
			\$
			\$
			\$

Item 10. Publicly Traded Securities

List all publicly traded securities, including but not limited to, stocks, stock options, corporate bonds, mutual funds, U.S. government securities (including but not limited to treasury bills and treasury notes), and state and municipal bonds. Also list any U.S. savings bonds.

Owner of Security	Issuer	Type of Security	No. of Units Owned
Broker House, Address	Broker Account No.		
	Current Fair Market Value \$	Loan(s) Against Security \$	
Owner of Security	Issuer	Type of Security	No. of Units Owned
Broker House, Address	Broker Account No.		
	Current Fair Market Value \$	Loan(s) Against Security \$	
Owner of Security	Issuer	Type of Security	No. of Units Owned
Broker House, Address	Broker Account No.		
	Current Fair Market Value \$	Loan(s) Against Security \$	

Initials: _____

Item 11. Non-Public Business and Financial Interests				
List all non public business and financial interests, including but not limited to any interest in a non public corporation, subchapter S corporation, limited liability corporation ("LLC"), general or limited partnership, joint venture, sole proprietorship, international business corporation or personal investment corporation, and oil or mineral lease.				
Entity's Name & Address	Type of Business or Financial Interest (e.g., LLC, partnership)	Owner (e.g., self, spouse)	Ownership %	If Officer, Director, Member or Partner, Exact Title

Item 12. Amounts Owed to You, Your Spouse, or Your Dependents			
Debtor's Name & Address	Date Obligation Incurred (Month/Year) / /	Original Amount Owed \$	Nature of Obligation (if the result of a final court judgment or settlement, provide court name and docket number)
	Current Amount Owed \$	Payment Schedule \$	
Debtor's Telephone	Debtor's Relationship to You		
Debtor's Name & Address	Date Obligation Incurred (Month/Year) / /	Original Amount Owed \$	Nature of Obligation (if the result of a final court judgment or settlement, provide court name and docket number)
	Current Amount Owed \$	Payment Schedule \$	
Debtor's Telephone	Debtor's Relationship to You		

Item 13. Life Insurance Policies			
List all life insurance policies (including endowment policies) with any cash surrender value.			
Insurance Company's Name, Address, & Telephone No.	Beneficiary	Policy No.	Face Value \$
	Insured	Loans Against Policy \$	Surrender Value \$
Insurance Company's Name, Address, & Telephone No.	Beneficiary	Policy No.	Face Value \$
	Insured	Loans Against Policy \$	Surrender Value \$

Item 14. Deferred Income Arrangements			
List all deferred income arrangements, including but not limited to, deferred annuities, pensions plans, profit sharing plans, 401(k) plans, IRAs, Keoghs, other retirement accounts, and college savings plans (e.g., 529 Plans).			
Trustee or Administrator's Name, Address & Telephone No.	Name on Account		Account No.
	Date Established / / (mm/dd/yyyy)	Type of Plan	Surrender Value before Taxes and Penalties \$
Trustee or Administrator's Name, Address & Telephone No.	Name on Account		Account No.
	Date Established / /	Type of Plan	Surrender Value before Taxes and Penalties \$

Initials: _____

Item 15. Pending Insurance Payments or Inheritances

List any pending insurance payments or inheritances owed to you.

Type	Amount Expected	Date Expected (mm/dd/yyyy)
	\$	/ /
	\$	/ /
	\$	/ /

Item 16. Vehicles

List all cars, trucks, motorcycles, boats, airplanes, and other vehicles.

Vehicle Type	Year	Registered Owner's Name	Purchase Price \$	Original Loan Amount \$	Current Balance \$
Make		Registration State & No.	Account/Loan No.	Current Value \$	Monthly Payment \$
Model		Address of Vehicle's Location	Lender's Name and Address		
Vehicle Type	Year	Registered Owner's Name	Purchase Price \$	Original Loan Amount \$	Current Balance \$
Make		Registration State & No.	Account/Loan No.	Current Value \$	Monthly Payment \$
Model		Address of Vehicle's Location	Lender's Name and Address		
Vehicle Type	Year	Registered Owner's Name	Purchase Price \$	Original Loan Amount \$	Current Balance \$
Make		Registration State & No.	Account/Loan No.	Current Value \$	Monthly Payment \$
Model		Address of Vehicle's Location	Lender's Name and Address		
Vehicle Type	Year	Registered Owner's Name	Purchase Price \$	Original Loan Amount \$	Current Balance \$
Make		Registration State & No.	Account/Loan No.	Current Value \$	Monthly Payment \$
Model		Address of Vehicle's Location	Lender's Name and Address		
Vehicle Type	Year	Registered Owner's Name	Purchase Price \$	Original Loan Amount \$	Current Balance \$
Make		Registration State & No.	Account/Loan No.	Current Value \$	Monthly Payment \$
Model		Address of Vehicle's Location	Lender's Name and Address		

Item 17. Other Personal Property

List all other personal property not listed in Items 9-16 by category, whether held for personal use, investment or any other reason, including but not limited to: coins, stamps, artwork, gemstones, jewelry, bullion, other collectibles, copyrights, patents, and other intellectual property.

Property Category (e.g., artwork, jewelry)	Name of Owner	Property Location	Acquisition Cost	Current Value
			\$	\$
			\$	\$
			\$	\$

Initials: _____

Item 18. Real Property			
List all real property interests (including any land contract)			
Property's Location	Type of Property	Name(s) on Title or Contract and Ownership Percentages	
Acquisition Date (mm/dd/yyyy) / /	Purchase Price \$	Current Value \$	Basis of Valuation
Lender's Name and Address	Loan or Account No.		Current Balance On First Mortgage or Contract \$
			Monthly Payment \$
Other Mortgage Loan(s) (describe)	Monthly Payment \$	<input type="checkbox"/> Rental Unit	
	Current Balance \$	Monthly Rent Received \$	
Property's Location	Type of Property	Name(s) on Title or Contract and Ownership Percentages	
Acquisition Date (mm/dd/yyyy) / /	Purchase Price \$	Current Value \$	Basis of Valuation
Lender's Name and Address	Loan or Account No.		Current Balance On First Mortgage or Contract \$
			Monthly Payment \$
Other Mortgage Loan(s) (describe)	Monthly Payment \$	<input type="checkbox"/> Rental Unit	
	Current Balance \$	Monthly Rent Received \$	

LIABILITIES

Item 19. Credit Cards			
List each credit card account held by you, your spouse, or your dependents, and any other credit cards that you, your spouse, or your dependents use, whether issued by a United States or foreign financial institution.			
Name of Credit Card (e.g., Visa, MasterCard, Department Store)	Account No.	Name(s) on Account	Current Balance
			\$
			\$
			\$
			\$
			\$

Item 20. Taxes Payable		
List all taxes, such as income taxes or real estate taxes, owed by you, your spouse, or your dependents.		
Type of Tax	Amount Owed	Year Incurred
	\$	
	\$	
	\$	

Initials: _____

Item 21. Other Amounts Owed by You, Your Spouse, or Your Dependents

List all other amounts, not listed elsewhere in this financial statement, owed by you, your spouse, or your dependents.

Lender/Creditor's Name, Address, and Telephone No.		Nature of Debt (if the result of a court judgment or settlement, provide court name and docket number)	
		Lender/Creditor's Relationship to You	
Date Liability Was Incurred / / (mm/dd/yyyy)	Original Amount Owed \$	Current Amount Owed \$	Payment Schedule
Lender/Creditor's Name, Address, and Telephone No.		Nature of Debt (if the result of a court judgment or settlement, provide court name and docket number)	
		Lender/Creditor's Relationship to You	
Date Liability Was Incurred / / (mm/dd/yyyy)	Original Amount Owed \$	Current Amount Owed \$	Payment Schedule

OTHER FINANCIAL INFORMATION

Item 22. Trusts and Escrows

List all funds and other assets that are being held in trust or escrow by any person or entity for you, your spouse, or your dependents. Include any legal retainers being held on your behalf by legal counsel. Also list all funds or other assets that are being held in trust or escrow by you, your spouse, or your dependents, for any person or entity.

Trustee or Escrow Agent's Name & Address	Date Established (mm/dd/yyyy)	Grantor	Beneficiaries	Present Market Value of Assets*
	/ /			\$
	/ /			\$
	/ /			\$

*If the market value of any asset is unknown, describe the asset and state its cost, if you know it.

Item 23. Transfers of Assets

List each person or entity to whom you have transferred, in the aggregate, more than \$5,000 in funds or other assets during the previous five years by loan, gift, sale, or other transfer (exclude ordinary and necessary living and business expenses paid to unrelated third parties). For each such person or entity, state the total amount transferred during that period.

Transferee's Name, Address, & Relationship	Property Transferred	Aggregate Value*	Transfer Date (mm/dd/yyyy)	Type of Transfer (e.g., Loan, Gift)
		\$	/ /	
		\$	/ /	
		\$	/ /	

*If the market value of any asset is unknown, describe the asset and state its cost, if you know it.

Initials: _____

Item 24. Document Requests

Provide copies of the following documents with your completed Financial Statement.

	Federal tax returns filed during the last three years by or on behalf of you, your spouse, or your dependents.
	All applications for bank loans or other extensions of credit (other than credit cards) that you, your spouse, or your dependents have submitted within the last two years, including by obtaining copies from lenders if necessary.
Item 9	For each bank account listed in Item 9, all account statements for the past 3 years.
Item 11	For each business entity listed in Item 11, provide (including by causing to be generated from accounting records) the most recent balance sheet, tax return, annual income statement, the most recent year-to-date income statement, and all general ledger files from account records.
Item 17	All appraisals that have been prepared for any property listed in Item 17, including appraisals done for insurance purposes. You may exclude any category of property where the total appraised value of all property in that category is less than \$2,000.
Item 18	All appraisals that have been prepared for real property listed in Item 18.
Item 21	Documentation for all debts listed in Item 21.
Item 24	All executed documents for any trust or escrow listed in Item 22. Also provide any appraisals, including insurance appraisals that have been done for any assets held by any such trust or in any such escrow.

SUMMARY FINANCIAL SCHEDULES

Item 25. Combined Balance Sheet for You, Your Spouse, and Your Dependents

Assets		Liabilities	
Cash on Hand (Item 9)	\$	Loans Against Publicly Traded Securities (Item 10)	\$
Funds Held in Financial Institutions (Item 9)	\$	Vehicles Liens (Item 16)	\$
U.S. Government Securities (Item 10)	\$	Real Property Encumbrances (Item 18)	\$
Publicly Traded Securities (Item 10)	\$	Credit Cards (Item 19)	\$
Non Public Business and Financial Interests (Item 11)	\$	Taxes Payable (Item 20)	\$
Amounts Owed to You (Item 12)	\$	Amounts Owed by You (Item 21)	\$
Life Insurance Policies (Item 13)	\$	Other Liabilities (Itemize)	
Deferred Income Arrangements (Item 14)	\$		\$
Vehicles (Item 16)	\$		\$
Other Personal Property (Item 17)	\$		\$
Real Property (Item 18)	\$		\$
Other Assets (Itemize)			\$
	\$		\$
	\$		\$
	\$		\$
Total Assets	\$	Total Liabilities	\$

Item 26. Combined Current Monthly Income and Expenses for You, Your Spouse, and Your Dependents

Provide the current monthly income and expenses for you, your spouse, and your dependents. Do not include credit card payments separately; rather, include credit card expenditures in the appropriate categories.

Income (State source of each item)		Expenses	
Salary After Taxes	\$	Mortgage or Rental Payments for Residence(s)	\$
Source:			
Fees, Commissions, and Royalties	\$	Property Taxes for Residence(s)	\$
Source:			
Interest	\$	Rental Property Expenses, Including Mortgage Payments, Taxes, and Insurance	\$
Source:			
Dividends and Capital Gains	\$	Car or Other Vehicle Lease or Loan Payments	\$
Source:			
Gross Rental Income	\$	Food Expenses	\$
Source:			
Profits from Sole Proprietorships	\$	Clothing Expenses	\$
Source:			
Distributions from Partnerships, S Corporations, and LLCs	\$	Utilities	\$
Source:			

Initials: _____

Item 27. Combined Current Monthly Income and Expenses for You, Your Spouse, and Your Dependents (cont.)			
Distributions from Trusts and Estates	\$	Medical Expenses, Including Insurance	\$
Source:			
Distributions from Deferred Income Arrangements	\$	Other Insurance Premiums	\$
Source:			
Social Security Payments	\$	Other Transportation Expenses	\$
Alimony/Child Support Received	\$	Other Expenses (Itemize)	
Gambling Income	\$		\$
Other Income (Itemize)			\$
	\$		\$
	\$		\$
	\$		\$
	\$		\$
Total Income	\$	Total Expenses	\$

ATTACHMENTS

Item 28. Documents Attached to this Financial Statement	
List all documents that are being submitted with this financial statement.	
Item No. Document Relates To	Description of Document

I am submitting this financial statement with the understanding that it may affect action by the Federal Trade Commission or a federal court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I know of the penalties for false statements under 18 U.S.C. § 1001, 18 U.S.C. § 1621, and 18 U.S.C. § 1623 (five years imprisonment and/or fines). I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on:

(Date)

Signature

FEDERAL TRADE COMMISSION

FINANCIAL STATEMENT OF BUSINESS ENTITY DEFENDANT

Instructions:

1. Complete all items. Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why.
2. In completing this financial statement, "the business entity" refers not only to this business entity but also to each of its predecessors that are not named defendants in this action.
3. When an Item asks for information about assets or liabilities "held by the business entity," include ALL such assets and liabilities, located within the United States or elsewhere, held by the business entity or held by others for the benefit of the business entity.
4. Attach continuation pages as needed. On the financial statement, state next to the Item number that the Item is being continued. On the continuation page(s), identify the Item number being continued.
5. Type or print legibly.
6. An officer of the corporation must sign and date the completed financial statement on the last page and initial each page in the space provided in the lower right corner.

Penalty for False Information:

Federal law provides that any person may be imprisoned for not more than five years, fined, or both, if such person:

- (1) "in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry" (18 U.S.C. § 1001);
- (2) "in any . . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true" (18 U.S.C. § 1621); or
- (3) "in any (. . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration." (18 U.S.C. § 1623)

For a felony conviction under the provisions cited above, federal law provides that the fine may be not more than the greater of (i) \$250,000 for an individual or \$500,000 for a corporation, or (ii) if the felony results in pecuniary gain to any person or pecuniary loss to any person other than the defendant, the greater of twice the gross gain or twice the gross loss. 18 U.S.C. § 3571.

BACKGROUND INFORMATION

Item 1. General Information

Business Entity's Full Name

Primary Business Address

From (Date)

Telephone No.

Fax No.

E-Mail Address

Internet Home Page

All other current addresses & previous addresses for past five years, including post office boxes and mail drops:

Address

From/Until

Address

From/Until

Address

From/Until

All predecessor companies for past five years:

Name & Address

From/Until

Name & Address

From/Until

Name & Address

From/Until

Item 2. Legal Information

Federal Taxpayer ID No.

State & Date of Incorporation or Formation

State Tax ID No.

State

Profit or Not For Profit

Business Entity's Present Status: Active

Inactive

Dissolved

If Dissolved: Date dissolved

By Whom

Reasons

Fiscal Year-End (Mo./Day)

Business Entity's Business Activities

Item 3. Registered Agent

Name of Registered Agent

Address

Telephone No.

Item 4. Principal Stockholders, Members (if LLC) or Owners

List all persons and entities that own at least 5% of the business entity.

<u>Name & Address</u>	<u>% Owned</u>
---------------------------	----------------

Item 5. Board Members or Managers (if an LLC)

List all members of the Business Entity's Board of Directors or Managers (if an LLC).

<u>Name & Address</u>	<u>% Owned</u>	<u>Term (From/Until)</u>
---------------------------	----------------	--------------------------

Item 6. Officers

List all of the business entity's officers, including *de facto* officers (individuals with significant management responsibility whose titles do not reflect the nature of their positions).

<u>Name & Address</u>	<u>% Owned</u>
---------------------------	----------------

Item 7. Businesses Related to the Business Entity

List all corporations, partnerships, and other business entities in which this business entity has an ownership interest.

Name & Address Business Activities % Owned

State which of these businesses, if any, has ever transacted business with the business entity

Item 8. Businesses Related to Individuals

List all corporations, partnerships, and other business entities in which the business entity's principal stockholders, shareholders, owners, board members, managers, or officers (i.e., the individuals listed in Items 4 - 6 above) have an ownership interest.

Individual's Name Business Name & Address Business Activities % Owned

State which of these businesses, if any, have ever transacted business with the business entity

Item 9. Related Individuals

List all related individuals with whom the business entity has had any business transactions during the three previous fiscal years and current fiscal year-to-date. A "related individual" is a spouse, sibling, parent, or child of the principal stockholders, shareholders, owners, board members, managers, and officers (i.e., the individuals listed in Items 4 - 6 above).

Name and Address Relationship Business Activities

Item 10. Outside Accountants

List all outside accountants retained by the business entity during the last three years.

<u>Name</u>	<u>Firm Name</u>	<u>Address</u>	<u>CPA/PA?</u>
-------------	------------------	----------------	----------------

Item 11. Business Entity's Recordkeeping

List all individuals within the business entity with responsibility for keeping the business entity's financial books and records for the last three years.

<u>Name, Address, & Telephone Number</u>	<u>Position(s) Held</u>
--	-------------------------

Item 12. Attorneys

List all attorneys retained by the business entity during the last three years.

<u>Name</u>	<u>Firm Name</u>	<u>Address</u>
-------------	------------------	----------------

Item 13. Pending Lawsuits Filed by the Business Entity

List all pending lawsuits that have been filed by the business entity in court or before an administrative agency. (List lawsuits that resulted in final judgments or settlements in favor of the business entity in Item 25).

Opposing Party's Name & Address

Court's Name & Address

Docket No.	Relief Requested	Nature of Lawsuit
	Status	

Opposing Party's Name & Address

Court's Name & Address

Docket No.	Relief Requested	Nature of Lawsuit
	Status	

Opposing Party's Name & Address

Court's Name & Address

Docket No.	Relief Requested	Nature of Lawsuit
	Status	

Item 14. Current Lawsuits Filed Against the Business Entity

List all pending lawsuits that have been filed against the business entity in court or before an administrative agency. (List lawsuits that resulted in final judgments, settlements, or orders in Items 26 - 27).

Opposing Party's Name & Address

Court's Name & Address

Docket No.	Relief Requested	Nature of Lawsuit
	Status	

Opposing Party's Name & Address

Court's Name & Address

Docket No.	Relief Requested	Nature of Lawsuit
	Status	

Opposing Party's Name & Address

\$
\$
\$

Item 21. Government Obligations and Publicly Traded Securities

List all U.S. Government obligations, including but not limited to, savings bonds, treasury bills, or treasury notes, held by the business entity. Also list all publicly traded securities, including but not limited to, stocks, stock options, registered and bearer bonds, state and municipal bonds, and mutual funds, held by the business entity.

Issuer	Type of Security/Obligation	
No. of Units Owned	Current Fair Market Value \$	Maturity Date
Issuer	Type of Security/Obligation	
No. of Units Owned	Current Fair Market Value \$	Maturity Date

Item 22. Real Estate

List all real estate, including leaseholds in excess of five years, held by the business entity.

Type of Property	Property's Location	
Name(s) on Title and Ownership Percentages		
Current Value \$	Loan or Account No.	
Lender's Name and Address		
Current Balance On First Mortgage \$	Monthly Payment \$	
Other Loan(s) (describe)	Current Balance \$	
Monthly Payment \$	Rental Unit?	Monthly Rent Received \$
Type of Property	Property's Location	
Name(s) on Title and Ownership Percentages		
Current Value \$	Loan or Account No.	
Lender's Name and Address		
Current Balance On First Mortgage \$	Monthly Payment \$	

Other Loan(s) (describe)

Current Balance \$

Monthly Payment \$

Rental Unit?

Monthly Rent Received \$

Item 23. Other Assets

List all other property, by category, with an estimated value of \$2,500 or more, held by the business entity, including but not limited to, inventory, machinery, equipment, furniture, vehicles, customer lists, computer software, patents, and other intellectual property.

<u>Property Category</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

Item 24. Trusts and Escrows

List all persons and other entities holding funds or other assets that are in escrow or in trust for the business entity.

<u>Trustee or Escrow Agent's Name & Address</u>	<u>Description and Location of Assets</u>	<u>Present Market Value of Assets</u>
		\$
		\$
		\$
		\$
		\$
		\$

Item 25. Monetary Judgments and Settlements Owed To the Business Entity

List all monetary judgments and settlements, recorded and unrecorded, owed to the business entity.

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Item 26. Monetary Judgments and Settlements Owed By the Business Entity

List all monetary judgments and settlements, recorded and unrecorded, owed by the business entity.

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date

Amount \$

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Opposing Party's Name & Address

Court's Name & Address

Docket No.

Nature of Lawsuit

Date of Judgment

Amount \$

Item 27. Government Orders and Settlements

List all existing orders and settlements between the business entity and any federal or state government entities.

Name of Agency	Contact Person
Address	Telephone No.
Agreement Date	Nature of Agreement

Item 28. Credit Cards

List all of the business entity's credit cards and store charge accounts and the individuals authorized to use them.

<u>Name of Credit Card or Store</u>	<u>Names of Authorized Users and Positions Held</u>
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Item 29. Compensation of Employees

List all compensation and other benefits received from the business entity by the five most highly compensated employees, independent contractors, and consultants (other than those individuals listed in Items 5 and 6 above), for the two previous fiscal years and current fiscal year-to-date. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, bonuses, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loans, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	

Item 30. Compensation of Board Members, Officers, and Managers (if an LLC)

List all compensation and other benefits received from the business entity by each person listed in Items 5 and 6, for the current fiscal year-to-date and the two previous fiscal years. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loans, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	

Item 31. Transfers of Assets Including Cash and Property

List all transfers of assets over \$2,500 made by the business entity, other than in the ordinary course of business, during the previous three years, by loan, gift, sale, or other transfer.

<u>Transferee's Name, Address, & Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
		\$		
		\$		
		\$		
		\$		
		\$		

